

The Nation.

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The Week.

THE examination of Mr. Clark, the President of the Union Pacific, before the Wilson Committee, on Thursday last, brought to light a somewhat amusing case of "striking." "Striking" is a slang term of "politics," and means threatening a person with what may be called predatory legislation, or, in other words, with the passage of a bill or resolution calculated to injure him pecuniarily, with the view of inducing him to purchase immunity, and is one of the modes of procuring subsistence to which "workers" resort in dull times between elections. The art of "striking" has been carried to greater perfection in New York and Albany than elsewhere, and at one time brought in considerable revenue to the old New York Common Council, but it flourishes in nearly all the States, and at Washington. In the present case, the dispute between the Government and the Union Pacific about the liability of the latter for the interest on the bonds advanced to it furnished a tempting opportunity. General Negley, of Pennsylvania, last spring, in the House, offered a joint resolution of a threatening character on this subject, but was reduced to silence by Mr. James Brooks, who proposed to read a letter or letters showing it to be "a black-mail operation." And now comes Mr. Clark and produces a letter written to him in April last, by Mr. Cowlam, the "private secretary" of Mr. B. F. Butler, in which this functionary warned him that there was "a movement on foot" which would cause immense damage to the Union Pacific; that it had behind it "one of the most indefatigable workers in the House"; that "it *could* be headed off"; but to do this, Clark or his agent "should meet Cowlam on the following Sunday morning in Washington"; that "the fight would be hard, but it must be a short one"; and that "prompt action could defeat, corner, and punish" the "worker," but that "there was not an hour to lose." In spite of the fact, however, that the warning voice issued from that fountain of morals and "equity," Mr. Butler's office, Mr. Clark was too old a bird, declined to take "prompt action," called "the worker" a "vagabond," and declared he might do as he pleased. The "private secretary's" feelings over this reckless indifference to the interests of a great corporation must be left to the imagination.

Another ugly witness has turned up in the person of one Spence, an accountant, who testified with regard to the \$126,000 to which we referred last week. This \$126,000 disappeared in May, 1871, no one knew where. It was accounted for under the head of "special legal expenses." The directors appointed as a committee to audit this account Messrs. Thomas A. Scott, G. M. Dodge, and J. F. Wilson, Government director. They audited it without any difficulty, but, strange to say, Mr. Wilson, although he audited it, knew no more about it than any one else. He says that he thought it best not to know. Mr. Spence, who was formerly chief clerk and assistant-treasurer to the Union Pacific, swears that he drew the checks which made up the sum of \$126,000, and that one for \$24,500 he handed to G. M. Dodge, and another for \$19,000 he handed to J. F. Wilson. Neither of these checks, however, was payable to the order of the two gentlemen in question. While this testimony was being put in, Mr. Wilson entered the committee-room. "What Wilson do you refer to?" he enquired in, we have no doubt, an indignant tone. But he compelled the witness to reply "James F. Wilson, of Iowa." At this point, the correspondent goes on to say, there was a "decided sensation among the Committee and the spectators, and there was the most oppressive stillness for an instant." Mr. Wilson stepped forward somewhat excited and said, "Now I want to settle this thing right here," and was apparently on the point of

proceeding to settle it by the usual Congressional form of denial, first by denying that he had ever received any such check, second by denying that he remembered having received any such check, and third by an argument founded on the preceding denials, showing the absolute irreconcilability of his statements with the statement he would have been obliged to make if he had received any such check. He was stopped, however, by the Committee at the time. Since then he has got the testimony of some one that he did not receive the check.

The facts about this sum of \$126,000 appear to be these: One of the various acts required of Congress by the Union Pacific Railroad was the right to mortgage a bridge between Omaha and Council Bluffs and C. S. Bushnell, a director, went to Washington to get Congress to look into it. The Iowa members, however, "would not move, as then there was much jealousy about the bridge both at Omaha and Council Bluffs," and Mr. Bushnell found there was nothing for it but to "send for General Dodge," at that time a director. The General came to Washington in low spirits, said that the "d—d Boutwell raid" on the road (meaning by this language the attempt of the Treasury to get the back interest out of the Company) "had ruined him," whereupon Bushnell said:

"I cannot help that, but you go to work to carry this game through, and I will give you all you lost, your expenses, and for your time; Dodge went to work, and in less than ten or fifteen days we had the bill through Congress just as we wanted it, all right; we settled all difficulties between Nebraska and Iowa that time."

Dodge then "figured up," and received \$24,500. The \$19,000 which Spence says he handed to Wilson was passed over to Thomas A. Scott, who had loaned the road "several hundred thousand dollars," and naturally wanted some money on account. The rest of the money seems to have gone as a "bonus" to General Dodge, to enable him to carry out a contract to take a quantity of the Union Pacific bonds above their market price.

By the time the *Crédit Mobilier* investigation comes to an end, we shall probably know what kind of a world we live in. Last week left Ames's check for \$1,200 payable to "S. C." or bearer, dated June 20, 1868, unexplained, and now the bank account of Mr. Colfax having been examined shows that Mr. Colfax did, on June 22, 1868, deposit the exact sum of \$1,200, notwithstanding his emphatic denial, before the Poland Committee, that he received any such addition to his income at that time from any source whatever. His exact words were, "Now I could not have had \$1,200 added to my income without remembering it very positively." As soon as the fact of this deposit came out, Mr. Colfax demanded a new investigation from the Senate, which the Senate very naturally declined to let him have. He has now retained as counsel Mr. Robert S. Hall, of this city, and when Mr. Colfax has refreshed his memory by looking over his papers, he is going to disprove the whole thing.

Mr. Colfax is behaving—to speak mildly—very injudiciously. He has been accused, on evidence on which any jury would convict him, of having perjured himself with regard to the receipt of \$1,200 from Oakes Ames. Now, there is only one answer to this, viz., that Mr. Colfax received the money from somebody else, and this answer could be made in five minutes. All he has to do is to name the man who paid it to him, and give the reason for which it was paid; and this, to a gentleman of small income who keeps his accounts with great accuracy, as Mr. Colfax says he does his, can be a task of no difficulty. Instead of doing this, however, he went to the Senate, and made an absurd demand for a fresh Committee of Investigation, though the Wilson Committee was still sitting, then allowed Oakes Ames to go home, and said he would produce his defence when Oakes Ames came back, made some rambling observations about "looking over his papers," and then started off to

attend religious and temperance meetings in Philadelphia and Baltimore. At Philadelphia he made his appearance before the Young Men's Christian Association, and was received with shouts of applause; and at the temperance meeting at Baltimore there was more frantic applause, and the Vice-President informed the audience that "the world was full of human trials, and crime, and suffering, full of wars, and disease, and breaking hearts, full of unjust aspersions," and made other moral reflections of the same sort. We now beg to inform Mr. Colfax that honest men are sick, heartsick, of this sort of thing; that what the world demands of him just at present is not philosophical observations on the vanity of this life, but a plain account of how he got that \$1,200; and pending his preparation of that account they think he ought to maintain a decent seclusion and reticence. We may also, with equal confidence, inform the young brethren of the Christian Association that when they raise shouts of applause for a man in Mr. Colfax's position, they set hundreds of thousands of other young men asking—as they asked during the Methodist Book Concern troubles—whether there is any more necessary connection between morality and the worship of Christ than between morality and the worship of Pan. Membership in these associations is fast ceasing to be a certificate of integrity; let them take care that it does not raise a presumption of want of integrity.

That politics at Washington are not essentially different from what they are in other parts of the country may be taken for granted after the *Crédit Mobilier* disclosures. A letter to the *Tribune* gives one or two curious specimens of the political work going on there. The day of land grants being over, at any rate for the present, the gentlemen who used to ask for land now go there seeking subsidies for the revival of American commerce and other kindred objects. The arguments they use are, in the language of John B. Alley, "chiefly of a patriotic character." For instance, there is some one who is willing to revive American commerce by running a line of steamers from Southern ports to the Suez Canal and the ports on the Mediterranean, if the United States will guarantee his bonds to the extent of \$13,000,000, and promises, to make the thing definite, to build twenty iron steamships fit for conversion into war vessels. The Government will not lose anything by it either; for, first, they will save the cost of maintaining twenty war steamers for twenty years, \$146,000,000; secondly, the education given to young sailors, taking as a basis the cost of training the pupils at Annapolis, will be worth \$4,480,000; next, the revenue derived by the Government from each laborer or mechanic brought over, at \$78 a head (12,000 for twenty years), amounts to \$19,200,000. Finally, the economic value of the total emigrant population (\$1,000 a piece) to be brought over in twenty years will be \$800,000,000. This shows a clear balance in favor of the scheme. We learn from the same letter something about the Texan Border Commission, which has been charged by the State Department with the duty of taking evidence as to losses suffered by Americans from Mexican incursions on the border. Apparently they have done their work very thoroughly. One claimant, according to the Commission's report, ought to have \$3 a day a head for the interest on a herd of cattle stolen from him some fifteen years ago. Others have reckoned the natural increase of their stolen herds at one calf a year for every animal, male or female. It is suspected that these claims have been trumped up for the purpose of offsetting Mexican claims against us.

The scheme of subsidizing a line of Australian steamers to the tune of half a million a year for ten years has been killed in the Senate. The difficulties in the way of the scheme were that there were no exports from this country to Australia, except hoes, shovels, and sewing-machines, inasmuch as the Australians get everything from England far cheaper than we can supply it; and it would be cheaper to make them a present of all they want of these articles than maintain a line of steamers for the purpose of carrying them. Australia, on her side, sends us an occasional consign-

ment of wool, and carrying wool to San Francisco is like sending coals to Newcastle. More than that, although there has been a line of steamers running to Melbourne from that port for three years, Americans residing there send their letters by the Suez route, as the most regular and expeditious. Finally, it was proposed to run on this Australian line, at Government expense, a lot of wooden side-wheel steamers, a species of sea-boat which is now found nowhere outside the United States, and which excites the laughter and pity of the civilized world. How long will it be, we wonder, before this business of "reviving our shipping trade" will be left to the American man who originally made the shipping trade?—that is, before the Government takes its clutches off of him, calls off its agents, detectives, weighers, appraisers, comptrollers, inspectors, who now have him by the throat, and are constantly "going through him," as the pickpockets say, and lets him get his ships and his materials for building them where he pleases, and run them where he pleases and how he pleases, like a hardy sailor and sharp trader, as he once used to be considered, and not like a reformed drunkard, whose friends have to find a situation for him and have to watch him when he walks the streets?

The report on the distribution of the *Alabama* damages has been sent back to the Committee on their own demand, made by Mr. Butler, which looks as if they had thought better of it under the influence of an address from Mr. Evarts. The plain truth is, that if any private person who had secured an award of money from arbitrators under circumstances similar to those under which the United States appeared before the Board of Geneva—that is, as the advocate and protector of third parties—on the ground of specific wrongs suffered by them, were, as soon as he got the money, to turn round and put his own construction on the award, and say that the money belonged to him for his sole use and behoof, and that he would give it to whom he pleased, he would be generally considered an outrageous swindler and humbug. There may be reasons for excepting governments from the operation of the ordinary laws of honor in dealing with money, but we have never seen them stated with any clearness or authority. The business of the Committee is to drop metaphysics and let "equity" and "eternal justice" alone, and devote themselves to finding out by the pleadings and proceedings and the judgments to what objects the arbitrators intended the money to be applied, and resorting to the rules of law by which the commercial transactions of honest men are regulated to help them out in all cases of difficulty or doubt.

A late decision of the President, sustaining the Attorney-General, although referring to a matter local to Philadelphia, has a national importance, as showing a determination to frustrate all prosecutions of criminals who support the Administration. A repeater named James Brown, a member of the Paid Fire Department of Philadelphia, was arrested for fraudulent personation at the October election, tried, and convicted in the United States Court, and sentenced to eighteen months' imprisonment. He was pardoned after eighteen days' imprisonment. The case excited deep indignation, and the Reform Association sent a committee to Washington to ascertain upon whose recommendation the pardon was granted. It is to be observed that in this case the usual precaution of consulting the District Attorney was omitted, and the pardon recites that it was "strongly recommended by a number of prominent citizens of Philadelphia." The rest of the disgraceful story is better told in the address, signed by Henry C. Lea, the Chairman of the Reform Association:

"To obtain this information, therefore, at the instance of the Executive Committee, a gentleman of standing and character visited Washington with such credentials as ensured his being listened to. Obtaining a letter from a prominent official of the Executive mansion to the United States Attorney-General, he made application to see the papers in the case, and was refused; and a request to be informed as to the names of the 'prominent citizens' who had joined in the recommendation for pardon was met with the humiliating assertion that they could not be divulged until the parties had been consulted, and had given permission. As, in spite of a second application

in writing, a week has elapsed since then without further information being received, it is presumable that the 'prominent citizens' prefer to remain concealed.

"An appeal to the President from the decision of his Attorney-General was unsuccessful, and the conclusion is forced upon the Committee that while the Administration had been misled by its pretended friends in Philadelphia, it preferred to accept the responsibility thus thrust upon it rather than surrender them to the indignation and contempt of their fellow-citizens."

The whole of this document is well worth reading. We believe that, as a rule, the Administration papers of Philadelphia have given only partial extracts. There is reason to believe that the political state of Philadelphia is worse than that of New York in the days of the Ring, and the apathy of the citizens gives reason to fear that it will continue for some time.

Senator Pomeroy has been defeated in his attempt to be re-elected by the Kansas Legislature in a very melodramatic way. Just as the vote was about to be taken in joint convention, Colonel York, one of the members, handed up \$7,000 to the presiding officer, which, he said, the unfortunate Pomeroy had given him as a bribe, and he improved the occasion in a speech an hour long. There appears to have been a great deal of latent virtue in the Legislature, for the effect of this revelation was, we are told, overwhelming, and they at once elected another man, as if under the influence of an afflatus. Pomeroy, who had a powerful lobby on the ground, and was "assigning" money vigorously, has been deeply affected by the disaster. His explanation of the affair is that it is a "put-up job," by which, we suppose, he means that Colonel York slandered him, and backed up the slander with a deposit of \$7,000. It ought to be said that Pomeroy's reputation has for years been very low. It is a great thing for the Senate and the country to get rid of him, particularly as his successor, though little known, appears to possess a good character; but of course any product of the Kansas Legislature must, for a while, be regarded with suspicion.

The Bar Association has at last come to some conclusion about Mr. D. D. Field's case and that of other lawyers implicated by the evidence and finding in the Barnard impeachment. The judgment of the Senate finding Barnard guilty inevitably involved the advocates who asked for the orders and appointments and carried on the combined proceedings which brought Barnard to his punishment. Some of these are members of the Bar Association, and others not. The question what the Bar Association should do in the matter was referred to the Judiciary Committee of that body, which made its report on Thursday evening. It concludes, in substance, that there would be no use in prosecuting before the Supreme Court those who are not members of the Association, because the evidence used at the impeachment trial would have to be all taken over again by a referee, and that proceedings of this kind before a referee might without difficulty be protracted indefinitely. As regards those who are members of the Association, the Committee on Grievances is the proper body to take cognizance of charges against them, but such charges cannot and ought not to be made by the Association as a whole, but by individuals, and no individual has made them. The Judiciary Committee declines to recommend a vote of censure on the accused, because it could not fairly do so without giving them an opportunity to be heard in their own defence, or, in other words, trying the whole case; and although it might seem doubtful to some whether this extreme caution should be observed in the case of Mr. Field, "after his anticipatory and otherwise remarkable defence, recently spoken within the walls of the Association, against an expected accusation, and after the publication by him in the newspapers of matter falsely pretended to have been spoken by him in the face of the Association," the Committee think "that to yield to such a temptation would tend only to mislead themselves and the body to which they belong." The result is that nothing has been done, and nothing will be done, unless some individual lawyer, having his own business to attend to, and perhaps a family to support, will go before the Com-

mittee on Grievances, the members of which also have their own business to attend to, and get them to engage in an investigation which might last for years; but that this individual lawyer is not forthcoming, and is not likely to be, is, we think, a very safe conclusion.

The Tweed trial has resulted as was expected in the disagreement of the jury. The jury was a most extraordinary body. Not only were its members persons of little education or intelligence, but several of them were drawn from "the dangerous classes." Some were liquor dealers and keepers of oyster saloons, one was a "bummer" from the docks, and one represented Tweed in the Albany lobby. There is a fierce controversy going on as to the responsibility for this miscarriage. The prosecution charges the Commissioner of Jurors and the Sheriff with tampering with the panel. The Commissioner replies, and, we think, fairly, that it is his business simply to make up the list of persons liable to jury duty, and that he is in no way responsible for the character of any particular panel; but it does appear that the Sheriff, who is an old Tammany hack, failed to summon decent men, and that only the dregs of the panel drawn in Court presented themselves to be sworn. This brings us down to the question, How was it that the counsel for the prosecution allowed them to be sworn? This question we have not seen satisfactorily answered. There was nearly as much reason for suspecting the Sheriff before the trial as after, and the appearance of many of the jurymen was in itself sufficient to draw challenges. There is a good deal of controversy about the manner in which the prosecution was conducted, and on this point there is a division of opinion among lawyers, as might have been expected, but the preponderance of opinion is favorable. The charge of the judge was strong against the "Boss," who, however, "sat smiling by," being apparently sure of his men.

Behind the trial there is, however, dark and deep-seated trouble among the newspapers and politicians, on which we are only able to cast one or two faint gleams of light; but it is worth some notice, as an illustration of the difficulties of "reform" in this city. The *Tribune* several times during the trial assailed the conduct of the case by the prosecuting counsel and made light of the evidence, and this, coupled with the fact that it omitted from its report—accidentally, we are informed—a very important portion of Garvey's testimony, has given currency to the charge that it is in some way under the influence of the Ring. It, on the other hand, maintains that Tweed's escape was prepared by the secret connivance of "Tom" Murphy and the Custom-house politicians, who have all along maintained friendly relations with "the Boss," with whom "Tom" was at one time connected by real-estate speculations; and color is given to this theory by the fact that "the Custom-house party" were very eager to nominate "Jimmy" O'Brien for the Mayoralty, and came very near doing it, and carrying the *New York Times* over into the support of it; thus showing that the tribe to which "the Boss" belongs was by no means hateful to them. This scheme was frustrated by dread of public indignation, and they then, under stress of weather, put up Havemeyer as a kind of jurymast, and ran into port by his aid. But they have ever since been opposing him bitterly, and have drawn up and are forcing through the Legislature a new charter, in which he is shorn of all real power, showing that they love "the party"—meaning their precious selves—far better than reform. Out of all these facts the conclusion has been drawn by their Greeleyite foe that they are now paying "the Boss" for support given them during the canvass. It is also alleged that they have broken with the *New York Times*, and that that paper no longer supplies true and unadulterated doctrine. To these unpleasant insinuations the *Tribune* adds attacks on the Attorney-General, which it began some months ago, apparently in the interest of Mr. D. D. Field, and tries to put sting into them by calling the really able and competent counsel employed by him in Tweed's trial "the Attorney-General's Ring." What this means we confess we do not know.

THE BAR AND ITS ETHICS.

THE result of the attempt made by the Bar Association to punish Mr. D. D. Field and others for their alleged complicity in the misconduct of which Barnard was convicted by the Senate, furnishes an instructive illustration of the way in which much of our penal machinery has grown obsolete under the influence of important social and political changes. When our criminal procedure grew up, communities were small, authority very strongly entrenched, and the law emanating from authority moved with tremendous momentum. Reformers, therefore, in every age of Anglo-Saxon jurisprudence, devoted themselves to surrounding accused persons with a barrier of somewhat intricate forms, and imposed on the courts the duty of scrupulously respecting them. Individuals were so weak and insignificant, the Government and its ministers so mighty, that it was arranged that even the most notorious criminal should only be approached through a labyrinth, and that his punishment should only overtake him after every avenue of escape had been solemnly and laboriously closed. Public opinion, too, sided with the law with something like ferocity, and with terrible concentration. The crown and consummation of this system may be seen, in the ordinary New York criminal trial, in which the whole procedure seems to have for its great object the escape of the prisoner. In that cumbrous and antiquated process, every precaution short of complete suppression seems to be taken to prevent the facts of the case having any influence on the fate of the accused, and to convert the investigation into a simple trial of ingenuity between two sets of lawyers, with the jury sitting as umpires. To make the performance all the more complete, too, great pains are taken to prevent the jury from being qualified umpires, who might close the debate with a clean-cut decision. They are carefully selected in such manner as to make it unlikely that they will agree at all, or thoroughly understand what is going on; and, in fact, about two years are passed submitting to a variety of tribunals a series of grammatical or dialectical puzzles, which have no more to do with the guilt or innocence of the prisoner than the famous question with which Sir Thomas More floored the scholastic doctors at Louvain, "whether beasts of the plough could be replevined in *withernam*."

Around this system there has grown up a state of things of which the fathers of the law could hardly have had an idea. Instead of a small, ferocious public, following the criminal to the gallows with hootings and execrations, pelting him in the pillory with stones and rotten eggs, and going to see a man burnt or broken on the wheel as to a fête, we have a very humane, careless public, full of horror for all inflictions of suffering or degradation, much too busy to be willing to give any time to pursuing murderers or robbers, and saturated with sympathy and with the sentiment of equality to such a degree, that not only is each man unwilling to inflict punishment on anybody else, but has a good deal of doubt whether he has any right to do so. Indeed, the sentiment of equality has sunk in so deep that almost everybody shrinks from assuming any moral superiority, even to a murderer. We approach a criminal with a sheepish, humble air, which seems to say that there is no knowing when we may cut a throat or pick a pocket ourselves. Tweed has embodied this feeling in a shrewd, humorous saying, which has since become popular slang—"you know how it is yourself." It found still more comic expression in the reply of the professor who murdered and then burnt or blew up a negro the other day in Baltimore, and who, when asked why he had got rid of the body in this barbarous manner, at once appealed to the fellow-feeling of the questioner by saying, "You don't know what you would do yourself, if you had a dead nigger on your hands"; assuming without hesitation that any gentleman might any day find himself in that predicament. This tendency in the popular mind, too, is stimulated by the later theology, which dwells strongly on the distinction between the sinner and his sin, and makes "love" of the one perfectly compatible with hatred of the other, separating conduct almost completely from men and women, and relegating vice as an abstraction to some metaphysical limit, in which it may be stigma-

tized and kicked about without hurting anybody's feelings. Add to these things a total want of cohesion in public opinion, the absence of any generally accepted standard of right or wrong or of propriety, and we have a confusion in which moral reprobation can be hardly said to exist, and which makes our elaborate precautions in the courts of law for the protection of innocence almost absurd.

The same phenomena present themselves, with slight variations, in what is called society, as distinguished from law and politics. Most of the regulations which govern our social intercourse and the voluntary organizations for social and professional purposes called clubs, were framed or grew up when society was much smaller and more homogeneous than it is now, and when its opinion acted with great force and directness, and kept alive in individuals an extreme sensitiveness to its judgments, so that it rarely had to do execution on an offender itself. The mere hint of its displeasure caused him to go into exile or perform hari-kari. It is now so large and varied in its elements that it rarely agrees on anything, and accordingly finds its judgments of little weight. If a man is accused of carrying off silver spoons from a dinner party, far from going into seclusion, he simply abandons the "set" which believes the "dirty libel," betakes himself to another which does not believe a word of it, and does not care whether it is true or not, and to which he tells in his turn that his host on the occasion referred to is the biggest thief in the country, and actually has a stolen teapot on his sideboard. Indeed, the facts of the case in regard to any man's morals are daily of less and less consequence, and we seem to be drifting back to the sentiment and usage of the early period, when jurymen were simply bystanders; when, if you could get a batch of your neighbors to say you had not committed an offence, no evidence that you had committed it could hurt you; or, better still, when the gravest charges could be met by offering to fight the accuser. For some time past in this city, persons charged with misconduct have been getting more and more in the habit of meeting charges not with defence, but with counter-charges, or by opposing to witnesses who saw them doing the thing, crowds of other witnesses who did not see them do it, and maintaining that one kind of testimony was as good as the other.

The rules of the Bar Association for the trial of offences against professional morality have evidently been framed under the influence of the traditions of a period when both society and the bar were totally different from what they are. They assume a power and unity in public opinion and a sensibility in individuals which no longer exist. They assume that the bar is a harmonious and homogeneous body, with a common standard of propriety, when the fact is that it is as divided in sentiment as the shoe trade, and when a counsellor who is censured by one section of it can get another section just as big to rally round him and set the censure at defiance. They assume that a "charge" is nowadays felt as a wound, and that anybody against whom one is made will, all business excuses being laid aside, give himself heart and soul to searching out its author and meeting it, when the fact is that the air is full of charges, nearly everybody has a few hanging over him, and the first concern of a man accused of bribery or blackmailing is not to defend himself, but to get up stories of worse bribery and blackmail about his accuser. In short, after reading the report of the Judiciary Committee, one feels that if the account it gives of the machinery of the Association is correct, the sooner all expectation of doing much for the purification of the profession under that machinery is abandoned, the better. It was made for the days of stage-coaches, when lawyers lived over their offices. The assumption on which the constitution of the Committee on Grievances is based, that when a lawyer behaves badly, another lawyer will at once leave his business and occupy himself in tracing out his badness all over the State in all sorts of cases, and before divers judges, until he has brought his guilt home to him, is simply a faint souvenir of old times. It may make elderly men sigh, but it will not improve the profession. Even if such prosecuting lawyers could be found in our

day, the case would speedily double itself, as it were; that is, the accused would bring counter-charges, and the committee would have to try three or four cases of professional misconduct in place of one, until the proceedings would resemble the celebrated beaver hunt, in which the dog and the beaver dodged in and out of the water and around the dam with such extraordinary rapidity that no mortal could tell whether the beaver was after the dog, or the dog after the beaver.

IS THE REPUBLICAN PARTY OPPOSED TO THE LAW?

IT is observable in the history of the Republican party, and it is a fact which in the future will appear greatly to its discredit, that its representatives in Congress have been arrayed generally against the judiciary of the United States. This is all the more remarkable because the strength of the party does not lie in great cities, and it contains a much smaller proportion than its rival of the lawless elements of society. The intelligent part of our rural population and the respectable middle classes, styled by Mr. Lincoln "plain people," are largely Republican, and furnish the party with its controlling majorities, and they certainly are what most Americans pride themselves upon being—"a law-abiding people." Nevertheless, ever since the war ended there have been Republican members of Congress in some way or other attempting to interfere with the administration of justice in United States Courts. And this must seem all the less excusable because the judges who now administer the laws of the General Government are chiefly of Republican antecedents. It appears indeed as if, from the moment when a Republican lawyer went upon the bench, an indefinable separation began between him and his political friends, widening gradually into a condition of positive antagonism. If the breach were merely personal or political, our enquiry might stop here; but when it becomes legislative, society has a direct interest in the matter, for then antagonism to the judiciary may be nothing less than resistance to the law. It is therefore of some importance to know how far this resistance has gone, and what it means.

Since the foundation of the Government there have been eight acts of Congress pronounced (by the Supreme Court) unconstitutional, and only two of these were enacted in the long period extending from the first session of the First Congress in 1789 to the accession of the Republican party in 1861. The remaining six are the work of Republican Congressmen. Yet it is not merely the disproportion of numbers which should receive attention; there is also something significant in the character of the acts.

The first, passed in 1789, was a statute conferring some original jurisdiction upon the Supreme Court. In most courts such statutes would be regarded with favor, and if not passed for an exceptional or improper object, no great harm could happen to anybody from the error. The keen judicial eye of Marshall, however, saw that the Constitution designed the Supreme Court to be an appellate tribunal, and that the only original jurisdiction conferred upon it was exceptional and declared by the instrument itself. The court so held in the great case of *Marbury v. Madison*—a decision doubly important, inasmuch as it was the first authoritative declaration of the limited powers of Congress, and the constitutional independence of the three great departments of Government. The next statute pronounced unconstitutional was the "Missouri Compromise" in the well-known case of *Dred Scott*. It was so decided, according to Mr. Lincoln, "in a sort of way," by which he meant, he says, that the decision "was made in a divided court by a bare majority of the judges, and they not quite agreeing with one another in the reasons for making it, and that it is so made that its avowed supporters disagree with one another about its meaning." But according to the masterly analysis of Governor Andrew when a member of the Massachusetts Legislature, the only question determined was the legal effect of a Missouri statute, and the remainder of the opinions was mere *dictum*. Be this as it may, the statute termed unconstitutional merely related to the authority

of Congress over the Territories, and did not affect the ordinary constitutional rights of either citizens or States.

Passing to the unconstitutional acts of Republican Congresses, we find that the first (in 1863), growing out of the excitement of the rebellion and distrust of Southern courts and juries, affected both the rights of the States by subjecting their judicial tribunals to a novel and unconstitutional method of review, and the rights of the citizen by overthrowing the finality which the Constitution expressly ascribes to trial by jury. The second was that extension of the income-tax to the salaries of State judicial officers which has been discussed in the columns of the *Nation* when reviewing the decision of the Supreme Court—a decision which we thought one of great importance, as bringing back the General Government to its proper relations with the constitutional independence of the States. The third statute was a police regulation forbidding the sale of kerosene and explosive oils unless of a prescribed standard, and the Supreme Court held unanimously that it was an interference with the authority of the State Government, and unconstitutional. The fourth statute was the Legal Tender Act, which compelled a man who had lent another gold before the enactment to receive in exchange for it non-redeemable, depreciated Government paper. It is true that the decision is said to have been reversed, but inasmuch as five judges concurred in pronouncing the act unconstitutional, and only five have since pronounced it constitutional, it may be enumerated in the list of questionable assumptions of legislative power. The fifth statute, passed at the end of the war, was one of those attempts of Congress to punish rebels legislatively instead of judicially—an attempt to take away from a man for life without a trial his ordinary means of subsistence. Of it the Supreme Court held, that while the Government may punish the guilty, it cannot, until he be tried and convicted, prohibit a citizen from pursuing his ordinary avocation by a sweeping legislative enactment. The last of these statutes, the "Drake Amendment," appears the worst at the point of view from which we are contemplating them; for it is the first direct attempt of Congress intentionally to evade the supreme law of the land, previously declared to be such by the unanimous judgment of all the judges of the Supreme Court; and it sought to do so by an attempted interference with the judicial discretion of the Courts of the United States, prescribing to them "an arbitrary rule of decision" in cases pending before them, requiring them to decide certain cases in a certain way, and forbidding them to give that effect to evidence which in the judicial judgment such evidence should have. It is noticeable that this decision of the Supreme Court in *Klein v. The United States* caused very little and no unfriendly comment within the loyal States; for as the angry feelings of the war subside, people begin to see clearly that a rebel is still a citizen, though a guilty one, and that while he may deserve hanging, he still has a constitutional guaranty that he shall be hung by a United States marshal and not by a sergeant-at-arms of one of the Houses of Congress. It is also noticeable that of the eight judges who united in declaring the act unconstitutional, all but one were appointed by Republican Presidents.

Nevertheless, we observe that a fresh attempt at evasion has been made in the House by certain Republican members, which, having failed there, has been renewed in the Senate. It seems that the Supreme Court decided, and with considerable unanimity—Justices Miller and Bradley only dissenting—that the title to captured cotton taken from the possession of individuals, and never used in aiding the rebellion, remains in the original owners, and that the captured cotton fund in the Treasury does not belong to the United States, but to the owners of the property, being merely held in trust by the Government. Whereupon a number of Republican gentlemen, who have been loudly calling upon the South "to accept the situation," decline to accept it themselves, and propose to nullify the decision of the Supreme Court by enacting that no such judgment shall be paid. It is also said by them that the case is one where members of Congress ought to "exercise their dis-

cretion," and they have thrown out some not altogether original reminders that "the people rule this country," and not the Supreme Court. Now it is perfectly clear that if the highest judicial tribunal in this country has determined that money in the Treasury does not belong to the Government, and does belong to A, B, and C, then sooner or later A, B, and C will get it, and any attempt to keep the money in the Treasury is a dishonest attempt to deprive A, B, and C of what has been judicially determined to be their property. Moreover, when the Government was a party to the suit in which this was determined, and voluntarily submitted its demands to the arbitration of the Supreme Court, it is peculiarly bound to submit to the decision.

It is a cheering fact, however, that the enactment was stoutly opposed by some of the strongest members of the party, such as General Garfield, Mr. Shellabarger, and Mr. Bingham; and it is strongly confirmatory of public opinion that leading members frankly said that "any tribunal is better than Congress for considering claims," and that Congress is "the least independent, the least intelligent, and the least honest tribunal for that purpose that can well be selected." In the Senate, on the contrary, all of the Northern Republicans supported the measure—the Southern Republicans, including Senators Sawyer and Poor, voting with the Democrats—and urged it with a good deal of the old rancor. Mr. Edmunds even went so far as to say of the Supreme Court: "We delegated this authority to them as *our agents*, as a convenient form of administration to enquire, on an appeal from the Court of Claims, into the particular cases that were brought to them." "The people," who are so often invoked when some piece of mischief is afloat, have tolerably clear ideas of the true nature of legal obligations, and a lively dislike of those litigants who, being beaten on the trial, proceed forthwith to beat their creditors on the execution. Certainly "the people" were never more averse than they are to-day to submitting the decrees of impartial legal tribunals to the "discretion" of members of Congress.

So far as Republicans are concerned, it is time that they cease to occupy a false position. The "Dred Scott decision" no longer exists; the "war legislation" of Congress was undeniably hasty and ultra; there is no portion of the people who more fully believe in the supremacy of law, or know better the value of an independent judiciary. Allowing themselves to be arrayed against that branch of their government which they most esteem, by that branch which they least respect, is what they have been too long doing. Senators Bayard and Stockton, courageously advocating an increase of salary for Republican judges, much more nearly expressed the views of Republicans than their own narrow-minded representatives have done. So far as the Supreme Court is concerned, all that is said of its assumption of power is idle talk; no better thing can be said of any court than that, through years of public excitement, it stood the bulwark of the weaker party.

THE PRICE OF A POSTAL TELEGRAPH.

IN discussing, a short time since, the proposed appropriation of the telegraph by the Government, we showed that a general reduction of message charges always involved a decrease of revenue, and we reached the enquiry whether Government is justified in reducing tariff below the cost of service for the benefit of those who telegraph at the expense of those who do not. The reply to this question by no means determines the expediency of governmental control of the telegraph. If the Government is to charge substantially present prices for messages, its appropriation of the business may still be a good thing for the country. Such doctrine, it is said, leads necessarily to the absorption by the Government of all branches of industry, of the boot and shoe trade as well as of telegraphs and railroads. We admit this freely, and we hold that there are circumstances under which the Government would be justified in going into the shoe business. There is but one case which warrants such interference, and that is essentially the same for all departments of industry. That case arises for a republican government when any one branch of the business of the community is so monopolized that citizens can no longer share in or control it, and so mismanaged that they can no longer endure it. When that day comes, either

in the shoe trade or the coal trade, in the conduct of a Pennsylvania petroleum combination, or of railroads and telegraphs, Government is warranted, when all other remedies have failed, in prostrating private enterprise by the crushing hand of power, and supplanting private industry as best it may. But while the interests of the whole people may sometimes justify the conduct of particular industries by Government bureaus, is there any justification for doing the work at less than cost? If Government should supplant the great coal-producing corporations, ought it to sell coal below cost in Maine, and make up the deficit by taxing the people of Louisiana? If it absorbed the railways, ought it to carry pleasure-travellers at half price, and collect the difference from citizens who stay at home? Is money to be appropriated by force out of the pockets of the whole people for the profit of a favored class? It strikes us that, in principle, this proceeding is about the same whether done by a popular government, under guise of law, or in defiance of law by highwaymen. There is no theory of republican government upon which such legalized robbery can be defended. When Smith, who does not travel and does not telegraph, is taxed so that Jones may ride in the cars and send messages to his wife at less than cost, then private property is taken without compensation, not for public but for private use, and the very foundation of our constitutional law of property is overturned. Government thereupon enters on the broad road to pure socialism. The only exception, if such it can be called, is in the case of education. It is as a means of education alone that Government is warranted in imposing the deficit in the post-office upon the public treasury. We believe that in meeting by taxation the expenses of such an uncertain educator as the post-office, we have already pushed the principle to its utmost limit. To the telegraph it cannot be applied with reason or consistency. A telegraph line has no more direct effect as a means of education than a news-boy, a type manufactory, or a mail-bag. The telegraph is, in fact, but a messenger with a verbal message, and it is not essential, except for purposes of convenience, that the communication should ever be reduced to writing. The lightning may fill the place of courier and errand-boy, but not, in a proper sense, of teacher.

If it is clear that this Government has no right to do telegraphing at less than cost for some citizens at the expense of others, and that no money can be made, as has been popularly supposed, by a sweeping reduction of existing tariffs, we have at least cleared away some rubbish from the subject, and can consider more intelligently the real advantages of Government control and its probable results. Four causes will cheapen the practical operation of the telegraph in the hands of the Government. They are:

1. Freedom from taxation.
2. Exemption from lawsuits and claims for damage.
3. Control of post-office facilities.
4. Monopoly of the business.

The economies from these sources as compared with private management are undeniable. Now, so far as the people are concerned, what do they amount to? It will be seen at once that the saving under the first head is but another form of the fallacy which, when fully worked out, ends in Fourierism. It is again cheapening messages for the few at the cost of the many. The taxes which private telegraph companies now pay are spent in supporting Government—Federal, State, or municipal—as it now exists. If this revenue no longer comes into the Treasury, it must be made good out of the pockets of remaining taxpayers. But why should telegraph property not contribute to the general burdens of government? And why should not the beneficiary, the consumer, pay the tax?

The saving under the second head, by immunity from lawsuits, would be something. As it is an item which concerns the senders of messages almost exclusively, the economy would be strictly legitimate. But we very much mistake the temper of the customers of the telegraph if they desire to have their messages cheapened in that way. The tendency of legislation and of popular opinion is to impose a strict accountability for errors and mistakes in messages; and some business men think the irresponsibility of a Government bureau dear at any price.

We have mentioned the control of post-office facilities as a source of economy more in deference to Mr. Creswell's opinion than to our own. In fact, the saving here would be very little. From Mr. Orton's letter to the Postmaster-General, recently published, it appears that rent, light, and fuel constituted but six per cent. of the expenses of the Western Union Telegraph Company for the last fiscal year.

Whenever the business is important, as in cities, it demands exclusive accommodation and exclusive attention. No divided labor, and, as a rule, no space less than that now occupied, will answer the purpose. In the smaller towns and villages, telegraph offices are already associated with railroad and express offices, or with other business, so as to make the rent practically nothing, and to economize labor as effectually as by any possible

connection with the post-office. We have often met telegraph operators, like Mark Twain's "condensed citizen," whose various titles and avocations would fill a page.

We come, then, to the last advantage, and that is the saving derived from monopoly. Here is the stronghold of Government telegraphs, the one point where they have no rival, the element of cheapness, which, more than all others, will affect the price of messages. It cannot be ignored, and should not be underestimated. Private companies have no questions so perplexing as those growing out of competition. Their main revenues accrue between large centres of population and trade, and this territory is always open to invasion. A line of telegraph costing one or two hundred dollars per mile in cash, may utterly destroy the dividend-earning capacity of a large investment in telegraph property. It may reduce rates not only between its termini, but in all the adjacent country. A new company, from the necessities of its position, almost inevitably cuts down prices, whether these were previously reasonable or excessive. While lines are new, repair expenses are small, and in the struggle to attract business and to injure competitors, the temptation is strong to reduce tariffs below the cost of service. As we have shown that reduction of tariff means loss of revenue, there is less profit to divide among two companies than there was before for one while the double organization largely and needlessly swells expense.

The result is the same as that of almost all other kinds of corporate competition, whether by railroads, insurance companies, steamships, or coal-miners; first comes a sharp contest in which rates are sacrificed and business rendered worthless; second, a combination by which prices are often as unduly raised as they were before unnaturally depressed. High prices and resultant profits provoke after a while fresh competition. And so the ebb and flow of tariffs goes on, while the public pays sometimes much more, sometimes much less, than the cost of the service would require if this disturbing element were withdrawn. So far as stockholders in telegraph companies are concerned, the necessary consequence is, great uncertainty in the return from their investments, involving a demand for a far higher rate of interest than would be accepted if their income was stable and secure. There is no independent telegraph company in the United States that, during the last ten years, has paid dividends with any sort of regularity. The latter have reached that degree of uncertainty at which stockholders may well regard them rather as prizes in a lottery than as lawful interest upon capital. Since the 1st of January, 1867, the five largest companies in the country have together paid but nineteen dividends. Over two-thirds of these purported to be made "quarterly." The average is about one "quarterly" dividend every two years.

The effect of such a state of things upon prices can hardly be overstated. Until within a few days it has cost five dollars to send a message from the Atlantic to the Pacific over either of the competing lines. We assert deliberately that any company in the United States would contract at once to do this business hereafter at a maximum price of one dollar a message, in return for the single grant of monopoly from the Government. If the people of the United States want cheap telegraphing, here is the road to it. It can be obtained either through the agency of Government or of private companies, under restraints and regulations of law as to all tariffs to be collected. The question is simply, do we want it on these terms? We do not propose to argue this point. We commend it to the sober thought of the readers of the *Nation*. We ask them seriously to consider, in the light of the current news from Washington about the relations of the Government to industry, and about the condition of our political morals, what the effect would be of committing one more enormous enterprise, freed from the risk of bankruptcy which accompanies all private undertakings, to the hands of the class of men who now carry on our custom-houses and post-offices, and engineer our "national highways," and besiege Congress for steamboat subsidies.

A NEW CHAPTER OF ABSURDITY IN AMERICAN LOCAL TAXATION.

IT is known to all who have examined the subject, that a hundred years ago, or less, the law-makers of England and of the Continent of Europe entertained very generally the same opinion in regard to local taxation which is yet popularly received and acted upon in the United States; namely, that in order to secure exact justice and equality, it is essential to subject all property of the taxpayer—real and personal, tangible and intangible, visible and invisible—to one uniform rate of valuation and assessment. And although it must then as now have been evident to every one, on reflection, that in order to do this it would be necessary to endow the assessors with more than mortal powers of perception, so as to enable them to see what was invisible and measure that which was incorporeal, and that in default thereof this practical application of the theory must result in ab-

surdity and injustice, yet it is curious to note that the change in English taxation, when it came about, was not due to any such process of reasoning by the people or to any positive enactment by the state, but rather to a series of legal decisions by the courts, which gradually undermined the whole system of British local assessment, until it tumbled down, as it were, imperceptibly, and was replaced from necessity by a theory which approximated more closely to the principles of political economy and the dictates of common sense. In this work Lord Mansfield led the way by deciding, in opposition to current practice and public opinion, that English consols could not in any way be made subject to local assessments; while other and subsequent decisions practically wiped out, in its application to taxation in Great Britain, that old-time fiction of law "that property follows the person or owner," and established this other and more rational principle, namely, that for all purposes of assessment the *situs* of property is where the property actually is; the legitimate inference in the case of property having no clearly definable *situs* being, furthermore, that this very condition of indefiniteness, incorporeality, and invisibility constitutes in itself the best of proof that any attempt of local authorities to interfere with and control it can be productive of nothing but evasions and immorality on the part of individuals, and loss and injustice on the part of the state.

So much as preliminary to a circumstance of more importance, to which it is especially desired to ask attention; and that is, that history as thus related is repeating itself in a most curious manner in the United States, and that the abrogation and reform of the unjust and absurd systems of local taxation at present existing in most of the States, and for the affecting of which neither argument nor the lessons of experience have thus far availed anything, seems likely at no distant day to be accomplished, as has been the case in times past in England, through the decisions of the courts of ultimate appeal and jurisdiction—decisions given in the first instance, as it were, abstractly, and without any direct reference whatever to the most important results certain to flow from their immediate and practical application. And as illustration and proof of this averment and prediction, the following statement of facts of recent occurrence is submitted.

The right of a State to impose taxes on imported goods came up many years ago before the Supreme Court of the United States in a somewhat celebrated case, known as *Brown v. Maryland*, in which the point at issue was the legality of a license tax imposed by the State of Maryland as prerequisite to selling an imported article, the plaintiff being a Baltimore merchant. The Court (Chief-Justice Marshall) held that this tax, though indirect in form, was in fact equivalent to a duty on imports, and therefore unconstitutional, and that the right to import carried with it a right to sell—a decision which was subsequently carefully recognized by various States in dealing with imported liquors under local laws imposing licenses. In the first report of the Commissioners for revising the tax laws of the State of New York, submitted in 1871, attention was, however, called to the fact that in some sections of the country, especially in the New England States, no attention whatever had been paid by local assessors to this decision of the Supreme Court; that taxes on imported goods continued to be locally assessed and collected; and that occasion was thereby given for extensive reclamations. The Boston Board of Assessors, feeling themselves particularly hit by these remarks of the New York Commissioners, replied soon after in an official communication to their city authorities, and defended their acknowledged practice, by asserting that "there was a broad distinction between the prohibition of the right to sell an imported article and the right to tax the same as property," and that the decision of the Supreme Court in question went no further than to affirm that a "State could not enact a law that would prevent the sale of such property, and did not touch the question of the right to tax." The utter irrelevancy of this defence was fully exposed in the second report of the New York Commissioners in 1872; but the Boston assessors, conscious of the power with which the present "Pagan" system of Massachusetts invests them, held to their interpretation of the decision of the Court, and continued to assess as before; until, within the past year, another decision of the United States Supreme Court has been made, so direct and unmistakable that all further misunderstanding and opposition are impossible. This decision, given in the case of *Low v. Austin*, is as follows:

"Goods imported from a foreign country, upon which the duties and charges at the Custom-house have been paid, are not subject to State taxation whilst remaining in the original cases, unbroken and unsold, in the hands of the importer, whether the tax be imposed upon the goods as imports, or upon the goods as part of the general property of the citizens of the State which is subjected to an *ad valorem* tax."

"Goods imported do not lose their character as imports, and become incorporated into the mass of property of the State, until they have passed from the control of the importer, or been broken up by him from their original cases."

An essential prop of the tax system of Massachusetts having been thus effectually taken out from under it, the Boston assessors, standing gallantly by their principles, propose to do their best to maintain their former practice and position; and for this purpose have addressed to the tax-officials of other seaboard cities and States a most curious and extraordinary circular, of which the following is a copy:

"ASSESSORS' OFFICE, CITY HALL, BOSTON, January 1, 1873.

"GENTLEMEN: Herewith find copy of a recent decision of the United States Supreme Court, by which imported goods, which in common with other merchandise have been assessed by State authority since the formation of our Government, are declared to be free of all taxation as long as they remain in the hands of the importer unbroken in their original packages. It will probably be at once apparent to you that this new exemption will, like that in favor of United States bonds, be availed of to remove from assessment much more than the actual value of the class of goods immediately covered by the decision of the Court. Fortunately it is within the power of Congress to restore to the States the revenue they have heretofore enjoyed from this valuable property, generally held by the wealthiest merchants in the country. It would seem that as no case of discriminating taxation upon imported goods has been brought to the attention of the country during the eighty-five years that have elapsed since the adoption of the Constitution, this decision was not needed to protect the Federal revenues from embarrassment by reason of State taxation. But in restoring the right of assessment, this possible contingency can be avoided by enacting that these goods shall be assessed at no greater rate than other merchandise in the hands of the citizens of the State levying the tax. The City of Boston has petitioned Congress for a law permitting the taxation of imported goods. Enclosed find blank petition in aid. Will you assist the movement by causing it to be forwarded in the name of the municipality you represent at once, and also by causing the senators and representatives from your State in Congress to be informed as to the merits of the question, that they may aid in the passage of the needed law?

"Very respectfully, for the Board of Assessors of Boston,
THOMAS HILLS, Chairman."

The following is a copy, also, of the petition referred to:

"To the Senate and House of Representatives, etc.:

"The undersigned respectfully petition your honorable bodies for the passage of an act making goods imported from foreign countries, and remaining in the original cases, subject to taxation for State and municipal purposes at the same rate as other merchandise held by citizens of this State."

In what has been already said, this circular and petition have been characterized as "most curious" and "extraordinary." That these designations are not now mere figures of speech, but that their use and application is every way warranted by the facts in the case, will appear from the following considerations.

Passing by the intimation of the circular that this class of property—i.e., imported goods—should be taxed by the States because "generally held by the wealthiest merchants in the country," as if the law was bound to take cognizance in taxing special classes of property of the relative pecuniary condition of the holders; and also the inferential ignoring of the principle that all taxes imposed on such property are, as a general rule, incorporated by the owners thereof in the selling prices, and so, falling on consumption, are paid by the poor equally with the rich, we are necessarily led to the conclusion that the Boston assessors, in framing their circular and planning their action, must either have forgotten that there was such a restraining instrument as the Constitution of the United States in existence, or else must have assumed that it was entirely within the capacity of Congress to overrule and nullify the Constitution whenever it pleased by the mere formula of an enactment. For in the first article of the Tenth Section of this Constitution, as if designedly put in to meet this special contingency, occur the following provisions: "No State shall, without the consent of Congress, lay any imports or duties on imports or exports *except what may be absolutely necessary in executing its inspection laws; and the net proceeds of all duties and imposts laid by any State shall be for the use of the Treasury of the United States.*" It is obvious, therefore, that here is not only a clear prohibition on Congress doing what is petitioned for, but also that if it should heed the prayer of the Boston assessors and grant them permission to tax, the permission would pecuniarily avail them nothing, and that they would simply perform their work for the benefit of the Federal Treasury. It should also here be remarked that the above clause is about the only limitation in the Constitution of the United States in respect to the disposition of revenue derived from taxes or duties.

But the Constitution has something further to say on this general subject. Section 8, Article 1, declares that "all duties, imports, and excises shall be uniform throughout the United States." But if Boston, New York, Brooklyn, Philadelphia, and Rochester apply to goods imported within their precincts the same rates which are assessed against other merchandise and property of their citizens (the rates in these several cities for the year 1870-71 having been respectively 1.53, 2.27, 3.87, 1.80, and 6.70), how can the con-

stitutional provision that the rate of taxation on all imports shall be uniform be complied with?

But looking at this whole matter generally, and apart from its constitutional relations, is it not obvious that this whole Boston circular and petition is in effect a request to Congress that it will permit the several seaboard and border towns and cities to take a hand, whenever it so please them, in further adjusting and manipulating that already complicated and vexatious subject of the tariff; that it will permit them to say, when Congress declares that tea, coffee, dye-stuffs, hides, and other articles shall be admitted free, that this freedom shall be locally qualified; and, finally, and in short, that a few places, by reason solely of geographical peculiarities, may be allowed to benefit and enrich themselves at the expense of the great majority of the States which are otherwise situated? It would doubtless be a fine thing for New York City, which first receives some three hundred millions annually of our imports, to be allowed to add this vast aggregate to the roll of her municipal valuation; but what would Ohio, Indiana, Illinois, and other great States of the interior say, through their representatives, to such a project? Many people have the idea that almost anything can now be accomplished at Washington in the way of legislation by sufficient persistency, backed by political and moneyed influences; but this would be one of the projects which every member of the lobby who desired to retain any reputation whatever for sagacity would doubtless pronounce from the outset to be wholly beyond effort. The Boston assessors have, therefore, assumed the position of advising their representatives in Congress and brother-officials in other cities to attempt to effect a result which a mere glance at the Constitution of the United States will show to be impracticable, and a most superficial consideration of the relation of the several States would prove to be inexpedient; the whole transaction, furthermore, strikingly illustrating two points, well worthy of every man's thoughtful attention: first, how small a basis of principle and information underlies a system of taxation like that existing in the State of Massachusetts; and, second, how unjust and impracticable it is to attempt to carry out a theory of local taxation in the United States which assumes as its fundamental basis that, in order that there may be equality, it is necessary to value and assess every description of property. For if imported goods, all Federal securities, money and other instrumentalities, and property *in transitu*, are specifically exempted by law, and if the majority of all incorporeal, invisible rights to property are equally exempted by a higher law growing out of their condition and man's nature, what becomes of the boasted equality of a system based upon such a theory? Has it not everywhere resulted in exactly what might have been predicated from the outset—namely, in an administration which taxes every man for personal property who is honest, ignorant, or incapable (by reason of circumstances) of practising concealment, and which exempts, on the other hand, the property of all those who are cunning, unscrupulous, and willing to forswear themselves?

There is one point more in connection with this matter which has a prospective interest of not a little significance. Since the decision of the Supreme Court in the case of *Brown v. Maryland*, above referred to, was given, it has been regarded by every writer of note on constitutional law who has referred to the subject as sufficiently decisive in respect to the right of the States to tax imported goods in the original packages as personal property of the importers or merchants; and if a practice of making such assessments previously existed in the seaboard States of New York, Pennsylvania, and Maryland, it has since been otherwise. The Boston assessors have, however, in face of precedents and suggestion, preferred to be a law unto themselves on this question, and have therefore, it would seem, obviously made their city liable to heavy reclamations. Whether such reclamations will be now made we know not; but, for the sake of good law and administration in the future, it is for the interest of the whole country that they should be. And when suits of this character are followed up by others, testing the question whether one State, in virtue of having possession of the person of the owner, can tax his property under the protection, sovereignty, and jurisdiction of another State, the existing system of Massachusetts will be on the high-road to dissolution, and the Boston assessors will be anxiously enquiring for something better.

DAVID A. WELLS.

Correspondence.

THE MASSACHUSETTS SENATORSHIP.

TO THE EDITOR OF THE NATION:

SIR: An article in a late number of the *Nation*, treating briefly the question of the choice of a new Senator for Massachusetts as lying between Mr. Boutwell and Mr. Dawes, concluded as follows: "Massachusetts was never

yet without the requisite timber for half a dozen senators, and was never restricted to choosing one of any given two men."

Nothing could be more reasonable nor more seasonable than what you say. Massachusetts has some private citizens who may be favorably compared with either Mr. Boutwell or Mr. Dawes in respect to fitness for a place in the Senate of the United States. Mr. Charles Francis Adams, for instance, after a series of invaluable services to the public, is no longer in the public service.

Mr. Dawes is a highly respectable gentleman. In his place in the House of Representatives at Washington, he has shown integrity, independence, and intelligence, and in a small way has gained experience. But the most partial friend would not think of ascribing to him any extraordinary qualities of statesmanship. For high official functions Massachusetts has scores of men of as good capacity as he.

Mr. Boutwell has the name of being an adroit manœuvrer in politics, and an adept in the management of men. This reputation following any person, besides being a thing quite vague in respect to the fact, is so exceedingly equivocal in respect to merit and usefulness, that men of character would generally prefer not to have it attach to themselves. At all events, as a public man, Mr. Boutwell has not established a claim, in the past, to the respect or confidence of the State which is now asked to send him to the Federal Senate. Massachusetts is no debtor to him. On the contrary, he has made trouble for her more than enough. His only very important action in her politics took place about twenty years ago, and it was deplorably bad. As the representative of the Democrats of the State, he entered into articles with Mr. Henry Wilson, representing a portion of the Free-soilers, for a trade in the offices. Nobody said that they handled money in the transaction. They preferred to deal by barter. Mr. Boutwell's allotment was the chief magistracy of the State, to which office he was accordingly elected by the joint votes of his own political friends and of Mr. Wilson's following of Free-soilers, and the plot having been carried into execution, worthy Massachusetts men were grieved that Mr. Boutwell incorporated into his inaugural address a set argument in defence of the horrible fugitive-slave law, then recently enacted.

That was not the end, however. Mr. Wilson enlisted Mr. Boutwell and Mr. Banks in a scheme for demolishing the constitution of the commonwealth. It was not suggested, even by the movers, that anything was the matter with the existing constitution, except an arrangement open to objection in respect to the lower branch of the Legislature. If this needed alteration, the thing was easily to be done by the use of a convenient article of the constitution itself, which provided for making amendments by an action of two successive Legislatures, subsequently ratified by a popular vote. But this would not meet the objects of the contracting parties. They calculated that there was something to be made out of a general scramble, and in the heat and turmoil of the time they got a vote for a constitutional convention.

It came together, and Mr. Wilson, Mr. Boutwell, and Mr. Banks were the triumvirate that ruled it. Mr. Banks was presiding officer, Mr. Boutwell was floor-manager, and Mr. Wilson chief usher in the lobby. They and theirs "overleaped themselves, and fell on the other side." They concocted a dose too unsavory for their best manipulation to force down. If they had had their way, there would have been now in Massachusetts for the election of representatives a system very like the old rotten-borough system in England, and instead of the excellent administration of the laws which Massachusetts always has had and has, there would have been a judiciary like that which has lately occasioned some little sorrow and disgust in New York. When the result of this synod was sent out to the people in the form of an amended constitution, the people could not stomach it. The popular vote condemned it and sent it to its place; and so far Massachusetts is as well off as if Mr. Boutwell, and Mr. Wilson, and their associated friends had let her alone. But it is small thanks to them that she is so. She owes her rescue only to her own stubborn good sense. And the rescue, considering how serious the danger was, is so much to be thankful for, that it is not worth while to remember how many thousand dollars the State treasury was mulcted in for the sorry job.

At all events, for the content of such electors of a senator for Massachusetts as think Mr. Dawes eminently competent, and Mr. Boutwell eminently meritorious, things seem to stand well enough as they are. These gentlemen are both already in situations which afford the public the benefit of all their talents, however great. Mr. Boutwell is Secretary of the Treasury of the United States, a place just now of immense responsibility and power, and Mr. Dawes is chairman of one of the two most important committees in Congress, perhaps the most important. If they are capable of such vast usefulness to the public, why disturb them? Why not leave them where they are, and add to the contribution already made by Massa-

chusetts through them to the public welfare by filling her vacancy in the Federal Senate with a man—if she has such a man—fitted by character, and ability, and knowledge, and experience to do her the highest credit and the best service in that exalted council?

In the course of his conspicuous career, Mr. Adams never did or imagined harm to Massachusetts by constitution-tinkering for sordid ends or in any other way. He has always been in harmony with her sober second thought, if not always with her ephemeral delusions. When he first came forward in public life, the Cotton Whigs (then so called) controlled her action, and Mr. Adams fell under their ban. He kept on his way with brave consistency, and presently Massachusetts thought better of the position, and stood stoutly by his side in helping to lay the slave power. Then selfish schemers plotted against the State constitution, and the peril was great. Mr. Adams addressed his fellow-citizens as its champion, and, short as the time was for blowing away the dust that had been thrown in their eyes, he prevailed, and the wholesome vote of Massachusetts declared her deliberate agreement with him. There were enough persons disappointed and irritated by his patriotic action to keep him on the shelf for some years. But by-and-by that too came right; and in his conduct in the elevated stations which he has held of late, not only his own State, but the nation, has seen cause to recognize the breadth and sagacity of view, the uprightness, the courage, the discretion, the firmness, the good temper, the variety of information and fertility of resource, which characterize statesmen of the highest order.

At all times, and notably at the present time, matters of extreme concern to the national well-being depend on the action of the Senate of the United States. Many think that that exalted body is not now overburdened with the fitting preparation of wisdom, and knowledge, and honest devotion to the public good. Many feel confident that the Senate will not be the worse for a further infusion of all such qualities, and Massachusetts is naturally looked to for such a contribution, when she has a chance to make it. This is not a time for her to be capricious or reckless. Just now the foreign relations of the country are worth attending to in the Senate with some better insight than belongs to Mr. Cameron and Mr. Morton. Is it more than fair to the whole people that before Massachusetts comes to fill her vacant senatorship, she should consider wisely who is, for the purpose, her most trustworthy and serviceable citizen?

M. Y.

PUBLISHING EXAMINATION PAPERS.

TO THE EDITOR OF THE NATION:

SIR: "N. N.'s" letter on the publication of college examination papers is an extraordinary performance. Every one of his arguments either is directly in the teeth of the plain facts of the case, or makes directly in favor of what he opposes. First he says, "Examination papers necessarily give a very imperfect idea even to scholars of the character or amount of instruction given." I deny this *in toto*. To a scholar there is no way of imparting the idea so quickly and with so little trouble. As to the ignorant, they cannot be expected to get very clear notions on the subject any way.

Suppose a graduate of West Point or of the École Polytechnique asks me, "How high do they read in Cambridge (England) for a mathematical degree?" I answer, "Here are the papers of my year, printed in the 'Cambridge Calendar.' I only did these questions and just passed. The senior wrangler did all except such and such questions. You will remark that the time is limited."

This, I repeat it, is the best and shortest way of imparting the idea to a man who is master of the subject. Suppose I tell an enquirer that at such and such a period of the course the students of a certain college read *Mechanics*. He will then ask the name of the text-book, then what parts of it are read, and after all will not know as much about it as he might learn by a very brief look at the examination paper.

Secondly, we are told that "to the outside public, who cannot see the bearings of the conundrums put, or the daily teaching, they must often seem puerile, sometimes farcical, and must tend to lower the low estimate in which universities are too apt to be held by men of affairs."

I suspect that "men of affairs" do not generally trouble themselves to read college catalogues, whether with or without examination papers among their contents. But if we are to pander to the prejudices of those ignorant, self-conceited, and self-made "men of affairs" who think nothing which they do not know worth the knowing, we shall not be able to publish anything relating to the Humanities: we shall hardly be able to have any colleges at all.

Next, he thinks that "public curiosity is insatiate," and ought not to be gratified. It has always seemed to me that the fault was just the other way, and that the general public did not take sufficient interest in our colleges.

But if I am wrong as to the fact, then their curiosity is a good, not a bad sign, and ought to be encouraged.

Then the undergraduates may be assisted by these papers to prepare for their own future examinations. Exactly—and very proper it is that they should be. Not, as he wildly supposes, by cramming the answers to the actual questions in the published papers (for those vary from year to year like the figures of a kaleidoscope), but by ascertaining the sort of questions that are usually asked.

Finally, our colleges are “drifting toward an evil,” which is that of “attaching too much importance to examinations.” Here again I join direct issue with “N. N.” on the fact. I am convinced—and convinced that it would be easy to prove—that much of the great progress which our colleges have made within twenty years is owing to the institution of written examinations. These require long previous preparation, and some amount of positive knowledge, whereas the daily recitations are crammed up from day to day, and forgotten, in a great measure, as soon as learned, even by many of the candidates for the highest honors.

C. A. BRISTED.

WASHINGTON, D. C., JANUARY 23, 1873.

TO THE EDITOR OF THE NATION:

SIR: Your correspondent “N. N.” should not have confined his remarks nor applied his delicate humor to Cornell University alone, but should have included in his denunciations the Universities of Oxford, Cambridge, Edinburgh, and other great foreign schools, which annually give their examination papers to the public. He should have mentioned Harvard, which, although it does not insert its papers in its catalogue or calendar—I hear it stated that even this is to be done hereafter—at least prints them, and forwards sets to anybody on application. He should have alluded to the Regents of the University of the State, who have frequently published their own examination papers, and those of institutions under their charge. “N. N.” may, however, console himself with the reflection that he is by no means the first American who has displayed a gross ignorance concerning this matter. The whole subject of examination is little understood among us, and our lack of knowledge on this point has always seemed to me not one of the smallest obstacles in the way of a full and fit reform of the civil service. Not one teacher in a hundred understands the art of drawing up a proper examination paper—a paper which shall fairly represent the leading points of the subject taught, which shall elicit in the best shape the evidences of the student’s attentiveness and labor, which shall maintain the right line between too minute detail and too loose generalization, and which shall subject to the same test every member of the same class. I greet any publicity which shall tend to improve our condition in this regard.

I am aware of the antipathy of a good many more or less well-informed people to “cram,” and feel a sincere compassion for the conductors of the *Saturday Review* and *Pall Mall Gazette*, who have written themselves into a state bordering upon mental infirmity on this theme. But “cramming-up on past papers” doesn’t seem to me the worst evil in the universe. A man who has thoroughly “crammed-up” on the past mathematical papers published, for instance, by St. John’s College, Cambridge, must have got as much out of them as could be acquired from a whole library of text-books. The man who will “cram-up” on the “past papers” on English literature, for example, published in the annual reports of the English Civil Service Commissioners, will obtain a knowledge of the subject which would put to shame the graduates of most of our colleges. To your correspondent, and to others of his class, let me commend this recent utterance of Mr. Gladstone: “What a pitched battle is to the commander of an army, that a strong examination is to an earnest student. All his faculties, all his attainments, must be on the alert, and wait the word of command; method is tested at the same time as strength; and over the whole movement presence of mind must preside.” As also this comment on the above made by the London *Spectator*: “Force of character is tested by an examination almost as much as intellect; for instance, the power of concentrating various quite distinct streams of thought and knowledge on a single point is of the first importance in an examination, and requires not merely presence of mind, but a certain faculty of skilful intellectual grouping which is of the first value to practical men.”

January 24.

S. G.

Notes.

J. R. OSGOOD & CO. have in press: ‘Palmetto Leaves,’ by Mrs. H. B. Stowe; ‘Among the Isles of Shoals,’ by Mrs. Celia Thaxter; ‘The Other Girls,’ by Mrs. A. D. T. Whitney; ‘American Text-book of Art Education,’ by Walter Smith; ‘Gothic Forms Applied to Furniture, Decora-

tions, etc.’ by B. J. Talbert, illustrated by means of the heliotype process; ‘Masie Hall Sermons,’ by the Rev. W. H. H. Murray; and ‘Enigmas of Life,’ by W. R. Gregg.—Scribner, Armstrong & Co. will add to their Illustrated Library of Travels the ‘Lake Regions of Central Africa,’ edited by Bayard Taylor, and ‘Siam,’ edited by the Rev. George B. Bacon; and will reprint Medhurst’s excellent work on China, ‘The Foreigner in Far Cathay.’

—We have received the prospectus of a proposed magazine, to be entitled the *Chronotype*, to be devoted to genealogical subjects, and to be edited by Dr. Jerome V. C. Smith, formerly Mayor of Boston. The circular states that the journal “is designed for the instruction of the young and to afford recreation to . . . elderly people”—an announcement which does not lead us to anticipate that it will be of much value to the student of our history. With this circular, however, we received another, which reads as follows:

“DEAR SIR: As it is contemplated to embody in the columns of the *Chronotype* portraits, with family coat armour (hereditary or granted), and biographical sketches of families or persons who may wish to have such memorial for preservation, we shall require to be furnished with the matter and plates, either engraved or photographed, one month in advance of publication. Also, to be advised how many extra copies of the number containing such notice will be required.”

This is signed by Albert Welles, President of the American College of Heraldry and Genealogical Registry, 67 University Place. Now we had occasion, on the 10th of October last, to call the attention of our readers to a proposed book of biographies of distinguished Americans. This project, as we pointed out, bore some mysterious relationship to the Genealogical Registry; and the advertised feature of the *Chronotype*, the publication of biographies when plates are furnished, has a family likeness to the scheme of last summer. It is strange that so little is known of this ambitious “American College of Heraldry,” an enterprise which is perpetually starting new schemes and issuing trashy circulars. Last year we found that Mr. Wm. Coventry H. Waddell was president and Mr. Albert Welles secretary. Now we find Mr. Welles promoted to the presidency and Mr. M. Turner Forman is secretary. Beyond these names we find nothing, except long lists of undated recommendations, a list of twenty-eight honorary members, and apparently twenty-five life members. As to the active members of the society, its constitution or officers, we are left in the dark. Can the “practical herald connected with the institution” be the Henry Hays who published in the New York *Herald*, apropos of the death of Lincoln, such an amazing exposition of his incompetency in his profession?

—Those of our readers who care for philosophy ought to know of an important weekly journal, *La Critique philosophique*, now in its second year of publication by Germer Baillière, in Paris. Its editor is M. F. Pillon, whose name many will remember in connection with the excellent *Année philosophique*, of which two volumes were published before the German war, but which now becomes merged in this broader form of periodical. The doctrines the journal has to promulgate and defend are those of M. Charles Renouvier, who is an active contributor to its pages. His name has hitherto, we fancy, been less widely known than it deserves, and we rejoice that this popular form of publication promises to attract the attention of a larger circle of students to his writings. For, in our opinion, his ‘*Essais de Critique générale*’ form incomparably the ablest effort of philosophical speculation to which France has given birth during this century. How much of truth or error they may contain cannot be discussed here. But no one will read the first two *essais* without admitting their marvellous clearness, their trenchant logic and condensed vigor of expression, and without feeling that sort of weight and moral authority which any theory will possess when it is the resultant of the convergence of all the faculties of a powerful nature. M. Renouvier is through and through a *Verstandesmensch*. No mysticism or evasion of the principle of contradiction ever spots his pages. The knowable universe is for him, as for the school of Mill and Bain, a system of phenomena, and metaphysic is an analysis or inventory of their elements. But among these elements he finds the *possibility*, which British empiricism denies, of absolute beginnings, or, in other words, of free-will. On this somewhat well-ruminated subject M. Renouvier has been able to say something original and simple. Since we *may* affirm free-will, what more fitting than that its first act should be that of its own self-affirmation? So that we have an *act* enthroned in the heart of philosophic thought. Liberty is the centre of gravity of the system, which henceforth becomes a moral philosophy, not however neglecting to say its word concerning certain metaphysical postulates which morality seems to make. Republicanism is of course the political corollary of free-will in philosophy, and the *Critique philosophique* deals with political as well as literary and philosophic questions with an ability that should recommend it to all thoughtful minds.

—The Arundel Society has published many good collections of photographs, representing fans, furniture, pottery, jewellery, gold and silver ware, the Treasury of Petrossa, the Monastery of Batalha, the Cathedral of Compostella, but none that surpasses its last volume, 'The Architecture of Ancient Delhi.' The photographs, which are permanent, are very clear, the points of view selected with admirable judgment so as to combine architectural information with picturesque effect. The absolute truthfulness of photography as to form is specially adapted to architecture, and Indian architecture has the double advantage of being little known and very beautiful. At Delhi are the noblest minaret in the world (of which we have a wonderfully good full-length photograph, taken very near the base), arches which it is very interesting to compare with the Moorish, columns that remind one of the sculptures of Yucatan, and ornamentation as rich as any in the Alhambra. Perhaps the most effective photograph is No. 21, the southern door of Ala-ud-din's Gateway, where an arch, adorned with intricate carvings, admits a soft light into a dim porch ornamented with equal profuseness. This chamber is worthy of note for the mode in which the square walls are changed into an octagonal form to support the dome. The corners of the square are cut off by horseshoe arches of the same shape as the main doorway, but diminishing in size as they recede towards the angle, giving very simply an effect of great solidity, which is clearly shown in the photograph. The text by Lieut. H. H. Cole is unusually good for a work of this kind. He gives a description of each monument and a history of all, as far as it is possible, and makes his sketch interesting in spite of the number of unpronounceable and unrememberable names that trouble every reader of Indian history. This is preceded by a short account of the Archaeological Survey of India, by which it appears that the present Government is making praiseworthy efforts to get measurements and photographs of architectural monuments and casts of carvings throughout India. Two large courts, eighty feet high, have been constructed at the South Kensington Museum for the exhibition of full-sized casts of architecture, with the intention of affording an opportunity of comparing the architecture of different countries. Many Indian casts have been deposited there. It is to be hoped that our own art museums will be able to obtain copies of some of these.

—In a recent entertaining book of travels in the Caucasus and Persia, by a gentleman attached to the British diplomatic service, I find, writes a correspondent, the following incident, which is not without interest, both as bearing on Russian operations in the East and as a slight argument in favor of an intelligent civil service. The author does not vouch for its historical accuracy, but his informants, it should be noted, were Russian officials. Some years ago, when it was necessary to settle upon a new boundary between Turkey and Russia in the Caucasus, the Russian Government was very anxious to have the line a small stream running into the Black Sea about a hundred miles from Trebizond. This was in order to include Batum, a place insignificant in itself, consisting in 1865 simply of "some squalid-looking huts," but possessing "the only good harbor on the eastern shore of the Euxine." Some twenty miles to the east of this village, however, there is another stream having the same name, with the exception of a single letter. After the treaty was signed, it was discovered that this distinguishing letter had been omitted, and in consequence this latter stream became, and still remains, the boundary between the two countries. This unfortunate mistake has put the Russian Government to an enormous expense, as they have been obliged to make a port of Poti, a town situated in a swamp at the mouth of the Rion (the ancient Phasis). Though millions have been spent in improving the harbor and deepening the channel of the river, no amount of money can make it equal to Batum. A railroad is being constructed from Poti to Tiflis and Baku on the Caspian. It was opened in 1872 as far as Quiril. The importance of this road in a military and commercial point of view will easily be seen by a glance at the map. All the trade between Europe and the northern and northeastern provinces of Persia, which is now "carried on by means of caravans of camels and mules, which tramp wearily up and down the eleven hundred miles between Teheran and Trebizond," will inevitably follow this route when completed. At Tiflis our author met "a traveller from one of the largest furniture manufacturing factories in Paris, who had been buying walnut-wood in the forests of Mingrelia, the supply in Europe being exhausted. He found it in abundance, but the question was how to get it to France." Eventually it was sent to the Caspian in bullock carts, then up the Volga, then down the Don, and so, via the Sea of Azoff and Black Sea, to Marseilles. Russia's negotiations with Turkey in 1871 to obtain a cession of Batum appear not to have been crowned with success.

—The derivation which dictionaries—from Bailey to Latham's Johnson—give of the name *Rickets* is one of the curiosities of English lexicography. Bailey's first edition has "RICKETS (*παῖς*, of *παῖς*, Gr. the back-bone),

a disease common to children." Johnson is more explicit: "RICKETS (*Rachitis*, Lat. A name given to the distemper, at its appearance, by Glisson)." Dr. Latham retains the "*Rachitis*, Lat.," but omits the reference to Glisson. The last revision of Webster suggests that the name is 'probably from A. S. *rieg*, *hric*, back, spine," but adds, "see *Rachitis*" (for the old derivation from the Greek *παῖς*, sc. *ὀστέων*), and gives, *sub verbo*, a story from Aubrey about one Dr. "Ricketts, of Newbury," who was so famous for curing the new disease that people gave it his name—a story which Mr. Mark Antony Lower thinks "may be correct." No one would think of inserting in an English dictionary references to "*catchpollus*, Lat.," and "*aysiammentum*, Lat.," as the etymons of "catchpole" and "ease-ment"; yet something very like this has been done by the lexicographers who, as Aubrey says, have "vexed their lexicons to fetch *rickets* from the Greek." *Rachitis* is doctors' Latin, as "*aysiammentum*" is, or used to be, lawyers' Latin. Dr. Glisson's treatise, *De Rachitide*, was written about thirty years after the disease made its appearance in England. He states that, from the first, it was everywhere called by the common people "the Rickets"; that it had no other name; but that when, where, or by whom this name was given, neither he nor any one else could find out. One day, some physicians were consulting as to the name by which the new disease should be designated by the medical profession and in books. "One of us," says Dr. Glisson, "hit upon *ὀστέων*, *παῖς*, or *παῖς*, *morbus spinalis*." The suggestion was made and received as a joke, but on reflection there seemed to be some good reasons for adopting it. It had a familiar sound, was easily learned and remembered, and besides, it would have an influence to redeem from barbarism the popular English name of *Rickets* ("denique videtur hoc nomine Anglicum nomen, tanto populi consensu receptum, a barbarie liberare"); for "*Rickets*" might be understood to be merely a corruption of *παῖς*, "the difference between the two words not being greater than is often made by the vulgar pronunciation of a word adopted from a foreign language." And so this designation was accepted, and the doctors agreed that the common English name should be retained, as if coming from a pseudo-Latin word *Rachitis*, formed from the Greek adjective ("*facta voce Latina substantiva ex Græca adjectiva*"). The device was successful, and Glisson's hypothetical etymology passed current with the dictionary-makers. We must expect Skinner, whose *Etymologicon* was compiled before Dr. Glisson's treatise was published, and who suggests the derivation of "*Rickets*" from the Germ. *recken*, to stretch. Richardson quotes this suggestion, without approving or disapproving it. A rare tract, published in 1701, entitled "*Scelera Aquarum*; or, A Supplement to Mr. Graunt on the Bills of Morality" (4to, pp. vi. 30), by "J. H., M.D.," gives an account of "the London Ricketty Rheumatism," and offers an explanation of the name which has hitherto escaped notice. Dr. Glisson, according to this writer, mistaking the true etymology, "stumbled at the threshold," for "the English in the county of Derby, where the disease broke out, called the thing by the medley name of *Scurfi* and *WRYGATES*—that is to say, *scabby* and *crooked goings*. This was sweetened into *Scurry* and *Rickets* in process of time" (p. 18). One of the "signa diagnostica" which Glisson notes is, that children affected by this malady, "*paullatim infirmis pedibus insistent, atque inter incedendum sæpius vacillant, levique de causa titubant, aut etiam cadunt*." Was not a Derbyshire or Somersetshire man more likely to express all this by "*wrygates*" than to invent for it a bad Græco-Latin name for a disease "of the spine," with which, as the doctors believed, the "going awry" had some connection? Compare, however, the A. S. *werigian* to bend, Low Germ. *wericken*, Engl. *wriggle*, and O. Engl. *ricketty*, meaning "weak-jointed."

—Among French works bearing upon the task of national reconstruction we should name, if we began at the beginning, Dr. A. Siry's '*Le Premier Age*,' or the physical, moral, and intellectual education of youth. Closely allied with this are the two works on 'Marriage in France,' by MM. Ernest Cadet and Armand Hayem, both of which have received honorable mention from the Institute. The former sets forth the statistics of marriage and population in France (in 1870), traces the causes of the evil which they reveal, and suggests remedies. The statistical portion will be found valuable. M. Hayem, in a very thorough consideration of the whole subject, does not omit the effect of the law of inheritance on the number of children; but he differs from most and, we believe, the best observers in denying that the *partage égal* has any influence whatever on the increase of families. In advancing schemes of reform, he goes so far as to propose a kind of sanitary jury before which candidates for marriage shall present themselves for judgment. On the political side, we have Paul Leroy-Beaulieu's '*Administration locale en France et en Angleterre*,' a prize essay three years old, though only published last year. It will be found useful in comparing the governmental details of the two countries. A more widely suggestive work is the Marquis de Biencourt's '*Du droit de voter et de la valeur du vote*'—a sub-

ject by no means exhausted for the great American republic. The author would attach grades to the vote, according to the capacity of the voter, who would be entitled to promotion, as it were, on fulfillment of the conditions defining the higher degrees; and the penalty he would affix to the neglect to vote would be proportioned to the voter's rank in the scale of suffrage (*en rapport avec la valeur numérique du droit de l'électeur*). And does he not indicate the solution of the great-city problem, and the one to which we must eventually come even in this country, when he insists that there should be a difference between the right to vote for national and for municipal representation?

—Any one interested in the Catholic "revival" in France, concerning which our readers will remember an instructive letter from our Paris correspondent, may procure 'La France à Lourdes,' an official report, by the "Committee of the Manifestation," of the fêtes in honor of the miracle which has drawn such troops of pilgrims to the place. The particulars of the "manifestation" are briefly described, and the "moral" pointed out, and then follow the discourses of Father Chocarne, the Bishop of Tarbes, the Archbishop of Auch, the Bishop of Carcassonne, etc., etc. The fêtes took place on the 5th, 6th, 7th, and 8th of October, and among the pilgrims were MM. Armand Ravelet and Dubosc de Pesquidoux, who have given an account of their experiences in 'De Paris à Lourdes' and 'Pèlerinage de Lourdes'—collections of their letters written "toutes chaudes des émotions du moment" to the *Monde* and the *Union*. The fair-minded Protestant may as well read in connection with the foregoing a work published in 1870, called, in the abbreviated form to which the French eye is accustomed, 'Mémoire sur les instruments de la passion de N.-S. J.-C.,' by Charles Rohault de Fleury. This author has dared to face the impious doubts of heretics concerning the authenticity of the relics of the crucifixion. To this end "he studies one after another all the sacred instruments of the Passion, approaching what remains of them with respect, getting down on his knees before them, analyzing them scientifically, and making of himself by turns a chemist, archaeologist, historian; withal, reaching in regard to each one of them irrefragable conclusions, in which faith and science are admirably reconciled." So, at least, declares M. Léon Gautier in the *Polybiblion*. To meet the scoffing allegation of Calvin and other schismatics that "a whole ship would not contain the pretended relics of the true cross," M. de Fleury has "profited by the latest advancements of science, and particularly by chemistry, from which" (we still quote M. Gautier) "nothing can be concealed, and before which Catholics do not tremble." By this means he clearly distinguished the true nail of Trêves from all those which merely contain small fragments of authentic metal. Twenty-three steel and a great number of wood engravings represent each relic with its proper dimensions.

WHITNEY'S 'ORIENTAL AND LINGUISTIC STUDIES.'

IT is now about twenty years since Professor Whitney, young then, and just from the lectures of Roth, published his first paper on the Vedas, the very first, he says, in which the main results of modern study respecting the most ancient period in Indian history were made accessible in English. Others followed in 1859, 1861, 1863, and 1871, discussing the Vedic doctrine of a future state, the history of Vedic literature, and the translation of the Veda. First published in the "Journal of the American Oriental Society," and our heavy reviews, they are now collected for us, and thousands who had never seen them will read them gladly. Professor Whitney is surely happy in having connected his name and fame with the earliest literary monuments of the Indo-European race—works in which the foremost nations are seeking to trace their history, and through which the clue leads to the beginnings of all scientific knowledge of man. He has kindled his own enthusiasm in many who have been in his classes at Yale; but the students whom he formally instructs are few compared with those who have enjoyed his advice and aid, and who have filled their urns from his fountain; and year by year he reaches through the press a larger and more deeply interested circle. Something of this increasing interest is doubtless due to the reflex influence of Professor Whitney's European reputation, which is the pride of American scholars; but it is mainly the direct result of the same power which has made his editions of Sanskrit works, and his book on 'Language and the Study of Language,' so highly esteemed in Germany. Thoroughness is his most marked characteristic. Then there are few books of such depth and compass as his, expressed with as much simplicity. And compression never fails. In a wonderfully small space we get a sufficient body of facts for a general understanding of the history of Vedic study, of the Vedas

themselves, and their relation to modern mind and life. Now and then the author rises with his thought to rhythm and eloquence.

The essay on the Avesta has the same merits. Then comes an article on Indo-European Philology and Ethnology, a review of two essays disparaging Sanskrit studies, which presents the real claims of such studies with convincing clearness. It also gives Professor Whitney's views on a number of important points in the philosophy of language. What he says on pronominal roots is especially worthy of note. It is clear that they are not thoroughly understood, and that they have been much used as a mere refuge for ignorance. Professor Whitney thinks that the whole apparatus of derivation and inflection has sprung from the composition of independent words, which were originally names of physical acts or qualities. To our mind, there is a gulf between common compounds and derivatives by the pronominal elements which the personal endings of the verb do not begin to bridge; and the characteristic uses of the pronominal letters are such as to leave it doubtful whether their first use in artificial language was not as dependent enclitic syllables or sounds.

In two articles on Max Müller's 'Lectures on Language' (in which Professor Whitney is very exacting), and in those which follow on the present state of the question as to the Origin of Language, and on the "Simian," the "Physical," and the "Psychological" theory of language, Professor Whitney sets forth his views of the nature of language against Müller, Bleek, Schleicher, and Steinthal; and if we may judge from the elaboration and vigor of the criticism, these are the articles which he thinks to contain the most important work for the science of language.

The catchwords or keys of his position are that language is a human INSTITUTION, and that the science of language is a HISTORICAL science. His favorite method is to examine one word at a time, beginning with modern words, then say the unknown words are like the known, and language is nothing but a number of words. Thus, to show that language is a product of the human will, there is "gas invented outright by Van Helmont, about A.D. 1600"; then *telegraph*, *dahlia*, *petroleum*, *miocene*, with all their kith and kin, all the same as if forged brand-new; then there are *ink-bottle*, *steam-whistle*, *steam-boat*, *rail-road*, and then *help-ful*, *loveth*, and so on, until we make the induction that every word has been devised by some man, and so that languages, which are congeries of words, have also been so devised.

When we read Professor Whitney's statements of his own views, we assent; but when we read his assaults on others, we often dissent. The fact seems to be that this region of language is under the concurrent jurisdiction of the will and the unconscious involuntary activities; so that those who would exclude the will from it, and those who would make the will sole cause in it, alike err.

Thus, Professor Whitney urges that the science of language is a historical science, and we assent. Languages are a product of man, and embody his history, and words and languages have a history of their own. The great achievements in the study of language during the last generation are historical studies. We look to the future for more and more light from similar studies. To desert them would be giving up linguistics. When the Germans, who have shown ability to prosecute them, turn to futile metaphysical speculations, it is to be deplored. But then, shall we say that there is no scientific study of language except the historical, no impersonal laws of speech to be investigated? On the contrary, before language is thoroughly understood, its laws must be grounded in laws of the mind and of the organs of speech; and it is no futile metaphysics, but true science, which tries so to ground them.

Every product of man has a history, part of which belongs to the biography of the man who produced it. There was a steam-engine, whose story is part of the biography of Watt, and every machine has its story. So has every word. When the first schooner, narrates Professor Whitney, slid from her stocks, the chance exclamation of an admiring bystander, "Oh, how she scoons!" drew from her contriver the answer, "A *scooner* let her be, then," and made a new English word. There is, then, a history of language, which is a collection of anecdotes, and the free-will seems to reign in it. But there are laws of language, as there are laws of mechanics, and surely the word science is commonly used for the body of laws. We speak of the history of inventions, the science of mechanics; the history of prices, the science of political economy. If there is a body of laws of speech which are impersonal, these are the science of language. The history, the anecdotes, are linguistic truth, are interesting, they furnish material for science; but science, by eminence, comes with laws.

To work out the position that there is a science of language which is laws and not anecdotes, it has been urged that neither the origin nor changes of language are personal or voluntary. This Professor Whitney controverts, and he points out at great length that every utterance of every word is an act of man. That is true, but there are involuntary acts; a large part of

* 'Oriental and Linguistic Studies. The Veda: The Avesta: The Science of Language. By William Dwight Whitney, Professor of Sanskrit and Comparative Philology in Yale College.' New York: Scribner, Armstrong & Co. 1873.

both the movements of the muscles and of the mental acts are involuntary, many even unknown to us. The laws of reflective volition are different from those of the unconscious activity. The first are motives of the free intelligence, the latter are for the most part relations between objects external to the will. We learn to use our eyes, and habitually use them by processes unknown to us, and so the laws of optics have little to do with will or motive. There is something similar in speech. There are many steps between an object and the utterance of its name. Some trait of the object is established in the mind as its representative; this is the primary sign. With it is associated the phantasm of a vocal sound, a secondary sign. Then a sound like the phantasm is uttered by the movements of many muscles. But reflective consciousness knows nothing of the movement of particular muscles. We will the sound; the movements of the muscles are directed by the phantasm without consciousness. Often the volition is directed to expressing a thought, and primary signs, phantasms, and sounds all flow forth in answer. The changes in language are in great part produced in that part of the process of speech which is unknown to consciousness. The most familiar and widespread changes of sound are those in which sounds are exchanged for others more easily pronounced, as when *k* is no longer sounded in *knight*, or we say *cap'n* for *captain*. It is all wrong to explain these by motives addressed to the free-will, to call the change reflective economy or laziness. The speakers who bring them into use have no desire or purpose to speak otherwise than correctly; they are very often used in spite of a strong special desire and purpose to speak correctly. The explanation is to be sought in physiological and psychological laws, in relations of the movements of the muscles not controlled by special volition. It is true that such changes may be produced by the will. When the father of *Æschines* begins to be called *Atrometus* instead of *Tromes*, the story which *Demosthenes* tells explains it as a matter of free-will and motive in the rising son. But when we combine the facts of any old popular speech, free-will becomes infinitesimal.

If we carry back this mode of thinking to the origin of words, we come upon another of the questions on which Professor Whitney labors most: whether or not name-giving follows conscious thought, and is to be explained by conscious motive and purpose. He tells of the invention of modern words, and insists that the object named was distinctly known before it was named, and he is surely right; many words are inventions. But we have seen that the acts concerned in speech are under concurrent jurisdiction of the will and the unconscious activities, and it may very well be that an object and the phantasm of the sound which is to be its name may be united according to the laws of association in the unconscious activity. Uneducated persons often make new words. Their affixes and prefixes are attached according to their laws of association, without the slightest heed of dictionaries, or any special volition or purpose. The combination of thought and sound is made before either comes into consciousness. The first name-givers were probably least of all deliberate contrivers, and the first words, most of all, should be explained by laws of the unconscious activity and the relations of objects. Professor Whitney's views on this subject lead him to overrate the part which the imitation of the sounds of external objects plays in the origin of language, and to underrate the intimacy of the connection between man and speech, and the rapidity of its growth. He thinks that a period of experiments in communication, and probably even a language of gestures, preceded speech. But onomatopoey is imaginative by-play, and no free-agent with man's natural language would live without using his voice in freedom, and no family would live without rapidly associating the natural cries as names with the objects calling them forth.

If we pass from the origin of particular words to that of grammatical forms, of classes of words, of laws, Professor Whitney admits most fully that these are not matters of purpose or invention. He says:

"The unconscious laws which govern consciousness shape into a regular and well-ordered whole the congeries of items thus miscellaneous and as it were accidentally produced; they create out of words a language." "While, however, we are thus forced to the acknowledgment that everything in human speech is a product of the conscious action of human beings, we should be leaving out of sight a matter of essential consequence in linguistic investigation if we failed to notice that what the linguistic student seeks in language is not what men have voluntarily or intentionally placed there."

It would seem as though the statement that what the linguistic student seeks in language is not voluntarily or intentionally placed there, is a full admission that the science of language deals with the involuntary and impersonal only. Müller need say no more.

The paper on the present state of the question as to the origin of language was read to the American Philological Association. It accepts the question as a scientific one, but thinks we have gone nearly as far as we can in the historical method, and that progress hereafter is to be looked for from the settling of questions in the philosophy of language. Two are mentioned,

the answers to which will take us about as far as we need care to go. The first is, whether speech is essential to thought, or its assistant and instrument. The other is, should the first impulse to speech have come from within or without.

Here, we think, Professor Whitney points in the wrong direction. We want more facts, and more minute scrutiny of facts. Man has a natural language, and every presumption of science favors his passing with no *salutis*, by its gradual extension and development, to the present speech. We want a minute scientific study of the natural language in children and deaf-mutes, and of the rapidly-forming and decaying speeches of savages, and of the children of mixed races. Wedgwood is on the right track when he takes up one sound at a time and shows that it is a part of natural language used by infants and the deaf and blind, and that words grow up from it in the nursery, and are to be found in the languages of many nations, civilized and savage. Tylor's studies of the speech of deaf-mutes and savages and Darwin on 'Expression' are in the line of progress. It would have given better promise of fruit if Prof. Whitney had urged American linguists to study the speeches of savages and of families of mixed races. We have special facilities for such studies, and facts may be hoped from them which may control our philosophy.

But even if we were thrown back on philosophical speculation, Professor Whitney's questions, interesting as they are, do not seem to open any fruitful distinctions. The question whether the first impulse to speech is from within or without, seems most accurately answered by saying that we have an impulse to speech both from within and without. Professor Whitney's point is that language is social; desire of communication is its impulse. But to show that any organs of man are intended for the social state does not show that there is no impulse to their solitary exercise. The use of the voice is eminently social, yet the solitary use of it is pleasant, the degree of pleasure being a trait of race. Negroes go talking to themselves. Professor Whitney supposes man to begin speechless, and to invent one word at a time slowly. One man's first voluntary use of his natural cry might be social, another's æsthetic, a modulated tone for his own delight. If, by some miracle, a single life were enough prolonged, the man would invent many tools, subdue many animals, and he would talk to his horses, and dogs, and tools, himself, and his God. So we fancy. As to speech being essential to thought, it obviously is not. It is even a characteristic of an original thinker now, that he thinks much in natural signs without vocables. But it is by no means clear that in the beginnings of infant or speechless life, it is not the rule that thought is drawn from indefiniteness into reflective consciousness by becoming attached to some sensible sign by the laws of association; and while we would not exclude free-will and device from any stage of language, we certainly look to explain the general facts of early speech by association and the unconscious laws of mind and the organs of speech, rather than by motives and devices.

But we cannot here discuss these subjects at length. All our readers will read Professor Whitney. Many of them will study him, and none will study him without learning many things.

THE NORTH AMERICAN REVIEW FOR JANUARY.

IN the January *North American*, Professor Shaler, of Harvard University, has an essay entitled "Mixed Populations of North Carolina," which is as attractive as anything else in the number. So far as it relates to North Carolina, it is occupied almost wholly with the population, white and colored, of the Pamlico Sound region, and therefore has nothing to say about that infiltration of Scottish and Quaker blood which from before the Revolution until now has had so important an influence upon the history of the State. The Germans and Swiss and Huguenot French of New Berne and the swamp country adjacent are the people with whose fortunes Mr. Shaler has to do, and it is but a melancholy tale of stagnation that he has to tell. Of the negroes there resident he speaks at once better and worse than of the white. Better, because he pronounces them undeteriorated by the bad physical conditions, climatic and other, under which existence is carried on in the swamp and pine barrens; worse, because the fact that they endure these conditions without deterioration appears to him proof of their inferior development as human animals. A high state of development, he suggests, consists in the possession of qualities which are more precariously held, more dependent upon the conditions of environment, than are the broad underlying qualities which differentiate man from the other animals. And the "intense race individuality of the negro," while it enables his body to withstand the climatic influences which are detrimental to his white neighbor, also endues his mind with a like capacity for resisting change, and makes his intellectual advance but feeble.

Upon one or two points of Mr. Shaler's essay it may be useful to suggest

one or two considerations as worth bearing in mind, not so much for any positive and definite value that they have, but as, perhaps, of value in promoting a tendency to slowness in coming to a conclusion on a very large matter. The colored race in North Carolina, says Mr. Shaler, has before it the danger of gradually becoming extinct; "the cotton-seed is a ready substitute for ergot, and is used to an alarming extent"; "the opinion is very general among physicians and other observant persons, that the death-rate is not balanced by the births"; that there are as many negroes now as in 1860, as some say, is no proof that the race is not diminishing; formerly its increase was in excess of that of the whites; and during the first half of the decade between 1860 and 1870 the negroes were "under pretty much their old conditions, and should have added largely to the total of 1860."

As regards the continuance of "the old status" throughout the half decade covered by the civil war, we should say, in view of the Emancipation proclamations of September, 1832, and January, 1833; in view of the occupancy of a great part of the slaveholding territory from 1832 onward; and in view of the "underground" information which was regularly carried to every plantation cabin—in view of all this, we should doubt if the old status was, in point of fact, a good deal disturbed. As for the crime of abortion, often as it was committed in old times out of spite, or from indifference to children, or to defraud a slave-owner of additional property, or for other causes, it is reasonable to suppose that it has a good deal increased since emancipation set free to wander about, from town to country and back again, a great number of men and women previously much restrained, and neither notably industrious nor notably chaste and constant. But, on the other hand, excessive child-bearing was in old times openly and directly encouraged and inordinately stimulated; bribes were everywhere offered to breeding women to produce children, and to produce them to an extent with which nature really had little to do beyond furnishing the apparatus. One-half the South bred slaves for the other half in order to keep itself in income, and the other half bred all it could that it might not have to purchase beyond its own boundaries. The average census-taker, a product of a very different order of things, here found himself on an unknown shore. Then again we have to recollect that in 1870, when the last census was taken, the new status, as distinguished from that of slaveholding days, can hardly be said to have been established; and that consequently, all things considered, it is early yet for trustworthy statistics bearing on the question whether the African race is really to become extinct among us.

As to the North Carolina negro's being as good physically as the Kentucky or Tennessee negro, while hardly anywhere is there a poorer specimen of the white man than has grown up side by side with him in the Pamlico districts, it is proper to recollect that the North Carolina slave, as compared with the negro of other States, was, on the whole, a favored being. There were very few large plantations; there were many small farms where two, or three, or four, or seven negroes worked side by side with their owner, were fed much as he fed himself, and enjoyed a life far freer than that of the negroes in the gangs of the great plantations which extended from the South Carolina line on through the rice, cotton, and sugar States to Texas. Then of the sickly country on the coast where the white man deteriorates, the one tolerably healthy portion is the turpentine barrens, and there the work of the negroes lay. Probably, then, there may be better regions in which to study the "intense race individuality of the negro," as compared with the race individuality of the white man. Mr. Shaler closes his interesting article by expressing his belief that the negro's greatest need now is not more or better assured rights, but better wages than fifteen dollars a month. "Civilization," he remarks, "cannot grow on such wages." And he adds, "He who would do the best for this people must seek to establish in the South real industrial schools, manufactories, and savings-banks." However, it is the North Carolinians themselves who must do this.

A writer hitherto little known to the public, Mr. Isaac Butts, contributes what will probably be proved to be the *North American's* most useful article. It consists of a very rudimentary discussion of the ill-understood problem known as "the labor question"—a question one side of which, it is perfectly true to say, is urged by men who, whatever they may think they are doing, are in fact "repudiating the principles, the language, and the customs of social and business life, and adopting those which properly pertain only to spoliation and war." This is Mr. Butts's language, and he goes on to say it over again to Mr. Edward Kellogg, author of the workingmen's free banking system, to Mr. S. P. Cummings, and others of their way of thinking, by amplifying it in these words: "An indefinite expansion of this 'system' would substitute universal spoliation for the present custom of buying, selling, and exchanging all commodities, the parties to each transaction being free to consult their own interests and tastes exclusively; and brute force would take the place of mutual consent in all transfers of property." That Mr. Butts's exposition is too elementary, that it is

"Proving by Plato and the Stagirite
That fire ascends and snow is white,"

no one will be over-ready to say, when he reads Mr. Butts's extracts from the monetary speeches of a distinguished member of Congress whom workmen keep in his seat; and when he recollects that some hundred thousands of our voters are banded together in partial support at least of Mr. Kellogg's financial theories; and when he remembers the praises of the Commune which are openly chanted not only in London but in Boston. In fact, all ought to be glad to see articles like Mr. Butts's. As he remarks, there are two modes of dealing with the question and this state of facts, between which we must necessarily choose: First, to treat this pet system and its adherents with contempt; and, second, to appeal to the intelligence of the men who sincerely believe it would form a panacea for all their ills, and endeavor to convince them that its adoption would inevitably disappoint their expectations and add to their present grievances. To choose the first mode would be equivalent to saying to some millions of our population, "Your wrongs, your remedies, and yourselves are unworthy of our serious consideration"—language which, from one republican citizen to another, no matter how stupid he may be, is absurd; all the more absurd, indeed, the more stupid is the body of voters maintaining any dangerous doctrine.

"Cheap Money," "How would Cheap Money help the Poor," and "The Workingman's Grievances and their Proper Remedies," are the topics of which Mr. Butts treats from the capitalist's point of view, so to speak; or rather from the point of view antagonistic to that occupied by Mr. Kellogg and Mr. Wendell Phillips. But he does not forget that there is another side, and that the workingman, that the vast majority of the community, has real grievances which must be removed; he does not forget that there are classes in the community who habitually act upon the doctrine which Mr. Butts has known to be expressed literally in these terms, "Money has always beaten labor and always will." What is this, again, but war and not trade, spoliation and "beating," instead of "the present custom of buying, selling, and exchanging all commodities"? Not now, any more than in the past history of the slow advance of civilization, will it be the workingman who will make all of the difficulty, and be responsible for all of the injustice and cruelty of the struggle. More briefly, the essay deals with the second branch of the subject, but all that it says is calculated to promote an understanding of its subject and should have a wide circulation.

We have left ourselves very little space in which to speak of the other articles in this number of the *Review*, though there are two or three of them which for one good reason and another are well deserving of the attention of our readers. Professor C. K. Kendall, apropos of Lanfrey's first volume of the 'Life of Napoleon,' makes an article entitled the "Rise of Napoleonism in France," which at first sight looks trite, but which is not so, and for which a wide perusal may be hoped, as also for the work which it reviews. Compared with the ordinary and cherished American view of Napoleon's character, M. Lanfrey's view is like the almost frightful cast of the Emperor's face taken after death, revealing the true barbarian, when compared with Heine's picture of the Emperor after Jena, as he rode down the Unter den Linden. Mr. Hjalmar Hjarth Boyesen tells us more about Björnson than our public has previously known, and translates some scenes from one of his tragedies. A little ambitious, perhaps, the general criticism is, and a little unsatisfying the specific—as, for instance, when question is made of the fitness of Eywulf for the place of hero, as if he were of much consequence in presence of Hulda and her passion. But the essay, both critical and biographical, will be welcomed.

"The Rationale of the Opposition to Capital Punishment" is a cleverly turned little essay, or rather an essay with cleverly turned parts, which neatly and smartly sets forth some of the objections to the infliction of capital punishment on murderers. Avowedly they are, for the most part, sentimental objections; but there are one or two which are not such. The writer (Mr. E. S. Nadal) objects, for instance, that the punishment cannot be inflicted; as a matter of fact, it is found that it is "impossible"; people will not hang other people—that is to say, they will do it only once in a while, and unsystematically, "in an absent-minded and mechanical manner." Again, there is this practical and experimental objection to inflicting the death penalty—that "a great empire like Russia gets on without it" (but with the aid of Siberia), and so do commonwealths such as Michigan and Wisconsin. But most of Mr. Nadal's objections are entirely sentimental, unless we make the further exception of the objection that in putting a man to death by due course of well understood law, "we presume to lay our hands upon the awful mysteries of death and immortality." The essay is witty, and it raises a question which will bear discussion, though we suppose the death penalty will retain its place in our system, and be more or less judiciously employed until somebody, more tender of the bodies and souls of murderers than society at large has

ever been or is yet, shall devise some more effective deterring agency. Meantime, essays against the horribleness and sinfulness of hanging are tolerably good testimony to the deterring power of the particular deterring agency now in use. "Find out what your murderer does *not* want and give him that," is a coarse rule, no doubt; but it will answer after a fashion till the rule of the future is got into working order by its friends.

There is also a lively article on "The Causes of the Commune," which, perhaps, might as justly be entitled "The Commune's Occasion"; but it says nothing, we suppose, that is not true, whether or not it can be held to give us the whole truth.

The book notices are rather more varied than usual, and there is none that is not to be called good, though perhaps none which rises to the rank—not seldom attained by the *North American's* book notices—of being a literary product capable of standing by itself apart from the book reviews. But the notice of Büchner is helpful to an understanding of that philosopher; those of the biographies of Amos Kendall and Chief-Justice Taney dispense the reader from going through the biographies themselves; those of Eastlake's "Household Taste" and Smith's "Art Education" may be read in the gynecæum, and all the others are readable and worth reading.

THE MAGAZINES FOR FEBRUARY.

A CORRESPONDENT of the *Woman's Journal* points out that "A Curiosity of Literature" in this month's *Atlantic* is largely composed of matter which years ago appeared in an American translation of Bettina Brentano's famous letters to Goethe. But not the less does the article exhibit a real curiosity of literature, and one which will be quite new to ninety-nine readers out of a hundred; and, we may add, one which the writer in the *Atlantic* doubtless supposed himself or herself to be presenting to the public for the first time. It is a little strange, by the bye, that this Boston edition of the celebrated correspondence has been allowed to remain so long out of print and become generally forgotten; it has the name of being excellently done.

The *Atlantic's* article tells how Bettina earned seven thousand dollars by the publication of the letters in German; how this sum seemed to her insufficient for her purpose, which was to erect a colossal monument to her idol; how she determined upon putting forth an English edition, being moved to do so by a mistaken opinion as to Goethe's fame in England, for she knew only of the Goethean clique represented by Carlyle; how she employed first an Oxford and then a Cambridge student to make the translation, and how each in turn failed to satisfy her, as well they might; how she thereupon set herself to learning English that she might be her own translator; how she learned English—after a fashion, and a queer enough fashion; how the edition—ten thousand copies—was shipped to England to Messrs. Longmans, Brown & Orme without any previous understanding between them and the lady as to the reception of her consignment; and, finally, how the ten thousand copies were at last sold out of the custom-house as "unclaimed" matter, and in all probability went back to the paper manufacturers as "stock." So romantic an enterprise has seldom had a catastrophe so pathetically prosaic. Our writer has seen in this country one of the eight or ten copies of this singular work which may be presumed to be in existence—the only one, it is probable, that has ever been seen in this country. It was given by Bettina, with an autograph note, to the wife of a gentleman who alone had interested himself enough in her London venture to find out what had become of her books, and it is from this original source that the quotations in the *Atlantic* are taken. They are very interesting, especially where she describes her enthusiastic desire that the English should know the story of her affection for Goethe, and her labor in mastering, as she persuades herself she has mastered, the difficulties of the new language: "Forsooth," she says, "I saw in the last year no roses, no tree blowing; my intelligence lay narrowly grated up in the dictionary of good Johnson, and the grammars that I took to my couch and fell asleep on them, and had also a very hard bed to no boot, for I had unfortunately in no language a grammatical learning; all its terms were unknown to me, and their inferences incomprehensible; and those who would advise me frightened me out of my wits. I struggled for my version as does an animal for its young, and suffers them not to be touched by an indiscreet hand, but licks them clean again."

Often entirely incomprehensible, and sometimes only amusing, unless one recalls the intentions and the earnestness and courage of the lady, her version is once in a while quaintly but poetically felicitous. For example, we may take a metaphor which the magazine writer emphasizes. Bettina is speaking of the sun's power in opening a bud, and says, "It cannot again return to the cool closet of darkness." The phrase is a good example of that class of beauties which only a foreigner may be permitted to find in a language; but it is a beauty of a certain sort, though doubtless the reader's in-

voluntary reference of the metaphor to the unfolded affection in the heart of the young girl lends to it a charm. We quote, in conclusion, the following letter-picture of Bettina and Herder:

"Now I will tell thee also the story of my second kiss, it followed almost immediately upon the first, and what dost thou think of thy girl, that she is become so light-minded? Yes, that once I was very light-minded and to a friend of thine—the bell rings hastily; I spring to open the door; a man in black dress, of stern appearance, with somewhat inflamed eyes, enters—even before announcing his name, or saying what is his business, he kisses me, even before I bethink myself. I give him a box on the ear, and only then I look furiously in his face and become aware of a friendly countenance which seems not at all frightened and not irritated at his proceeding. To escape my dilemma—for I did not know if I had done right or wrong—I quickly opened to him the doors of my grandmother's apartment. Then my surprise was suddenly changed to fright, when I heard her exclaim in great ecstasy, 'Herder, my Herder! Is it possible that your way should have led you into this whimsical cricket-but? Be a thousand times embraced!' and here followed these thousand in-arms, during which I gently sneaked away, and wished that in the throng of caresses the one might be drowned which was replied to him with a box on the ear; but no! he forgot neither kiss nor flap!"

"Boy Life in a Scottish Country Seat," by Mr. Robert Dale Owen, relates, among other things, how Robert, then a thoroughgoing Calvinist seven or eight years old, undertook the conversion of his father, and is otherwise entertaining and not uninteresting. That is to say, there is about it a frankness of mental autobiography, so to speak, which may be of help to parents and other instructors of youth. "Idiosyncrasies," by Miss H. R. Hudson, talks about such unusually impressionable people as are depressed by the sight of a combination of purple and light blue, for instance, and who at once recover their spirits at the sight of a barberry bush. "Most people like roses and dislike snakes," she says; "but why are there so many snakes and roses for me?" A majority of her readers, we dare say, will be able to make a large supplement to her list of pet aversions and peculiar likings, all unexplainable, and the more unexplainable by those who are most affected by them. And probably, as she remarks, there is no one of her readers, however hard-headed, who can be described as having not a single "bit of nonsense about him." Odd associations of thought, more explicable than the so-called instinctive likes and dislikes, but probably reducible to the same law, also get some of Miss Hudson's attention, and her cursory article is throughout pleasant.

In "Thomas Jefferson, Secretary of State," we have Mr. Parton admitting that there was some right thinking on the side of the anti-French party in our early politics, and some wrong thinking on the part of our pro-French politicians; but this admission is a matter of words, it would seem, rather than the expression of full intellectual conviction. One would almost suppose, to hear Mr. Parton, that behind Burke's eloquent execrations of the Republicans who killed Louis XVI. and his queen there was nothing but the spirit of the aristocrat or of the romantic rhapsodist, with a half-crazy ideal of the spirit of chivalry. Perhaps so in the case of Burke, and Burke at this moment; but for all that, it requires Mr. Parton to say that some of the men and some of the theories against which Burke was fulminating did not need opposition of various kinds, unarmed and armed. As the Jeffersonians said, it was indeed not well that the wretched French peasantry should be feeding on grass in order that "one Austrian woman," whom Burke had happened to see when she was beautiful and graceful, should pursue uninterrupted "a career of ignoble pleasure." And, on the other hand, it is not well either that Mr. C. C. Bowen should have that "manhood" constituency of his in South Carolina which he has because of the practical carrying out of some of the doctrines which Burke detested and denounced, and of which many millions, of whom Burke was the too eloquent mouthpiece, disapproved, some from selfish, some from disinterested and reasonable motives. But some of us will die with this unlearned.

"The Bride of Torrisdell" is a versified Norse legend by Mr. H. H. Boyesen; "Lost," by Mr. P. Denning, is of good promise if, as the sketchy handling of its incidents would seem to indicate, the writer is young; "A Hunt for Smugglers," by Mr. Prentice Mulford, will be liked even by those who would have expected to find it in the *Overland Monthly* rather than in the *Atlantic*; "The Telegraph and the Post-office," by Mr. E. H. Derby, bristles with figures and is strong for the assumption of the telegraphic lines by Government; "Edible Fungi," by Mr. R. M. Copeland, shows us how little it is that the unbotanical epicure knows of his resources in the way of mushrooms; Mr. Howells's "Chance Acquaintance" goes on; and Mr. Whittier has a poem called "A Mystery"—the mystery being that common one of some day seeing with the bodily eyes a landscape which, it seems to us, we have assuredly seen before, in a dream perhaps; or in another life, "as poets feign":

"Was it a dim-remembered dream?
Or glimpse through æons old?"

The critical departments of the *Atlantic* are even better than usual. Mr.

Theodore Thomas is mildly expostulated with for playing to unaccustomed audiences not such music of Wagner's and Berlioz's and Liszt's as might lead them on with him to a hearty admiration for the "music of the future," but the more painfully intense, passionate, abstruse, and terrifying and annihilating music of those masters. Under the head of "Politics," we have an article, useful to journalists, which discourses of the common-law doctrine of contempt of court. The art-critic—who, by the bye, considers himself but poor authority as regards the just measurement of statues, while we, on the other hand, consider ourselves good enough authority in a matter so simple—gives us the good news that there is now in Boston a "Household Company of Art," which will be of invaluable assistance to persons who are furnishing houses and who wish to furnish them tastefully.

The Scientific Department develops one of the principal points in Mr. Walter Bagehot's "Physics and Politics"—a book of much interest to those who maintain and those who contravene the position that there "cannot have been in prehistoric times a general loss of the attributes of civilization." The department of "Recent Literature" reviews Turgenev's 'Liza,' Mr. John Fiske's 'Myths and Myth-makers,' About's 'Alsace,' Gagal's 'Tarass Boulba,' Cherbuliez's 'Etudes de Littérature et d'Art,' and the second volume of Forster's 'Life of Dickens'—the last-named work meeting with no more favorable a welcome from the *Atlantic's* critic than from the rest of the critics. It is indeed a work which justifies a good deal of plain speaking.

For a good specimen of the *suggestio falsi* in historical writing we refer the reader to the 349th page of the current *Harper's*. The writer is once more going over the story of Mary, Queen of Scots, and is speaking of her education at the Court of France:

"Certainly the last custodians of the conscience which a modern would choose would be those Jesuit fathers—Vasquez, Escobar, Mendoza, for example—who did not hesitate to defend by their casuistry, and under color of religion, fraud, forgery, falsehood, murder; and whose teachings, before they were counteracted by the protests of such believers as Pascal and such heretics as Luther, brought forth their fruit in the assassination of William of Orange and of Coligni and in the wholesale massacre of St. Bartholomew. And it was these fathers, and their apt disciple the Cardinal of Lorraine, who were the keepers of Mary's conscience."

One would not gather from this paragraph that Escobar was born two years after Mary had had her head cut off. And as for the other two, neither of them, so far as we know, ever set foot in Spain, and therefore "certainly were among the last custodians of the conscience" which anybody, ancient or modern, would have selected as the instructors of a young princess resident in Paris. Another queer assertion is that the last that is known of Henry Darnley he was reading the Fifty-fifth Psalm. Why he was doing this appears from two of the verses here quoted: "It is not an open enemy that hath done me this dishonor, for then I could have borne it. . . . It was even thou my companion, my guide, and mine own familiar friend." Save us from our friends, indeed.

"Life in the Diamond Fields" is lively in its description of the South African miners, boers, and negroes; "The Mont de Piété" describes a French institution which Boston once copied, and a copy of which our New York philanthropist might, we suppose, set on foot with advantage to many people now the prey of the pawnbroker; Professor Henry Draper publishes a lecture, desultory and fragmentary, but well adapted to a general audience, on "The Delusions of Medicine," in which he says something about the follies of the astrologers; "The Easy Chair" eulogizes the late Horace Greeley, not without discrimination; also, he satirizes the citizens of Boston for their alleged severity of taste in music, and appears to approve an assertion overheard by a gentleman who recently visited that city, to the effect that "the Bach business" as transacted in the Music Hall is a humbug—a fashion that has nearly gone out. Mr. Reade's, Mr. Wilkie Collins's, and Miss Thackeray's stories continue as usual, and, as usual, there is much other matter of a well-known kind.

Lippincott's has for its most attractive article one upon a curious subject—the strange sights which meet the eye of the submarine diver. The writer is fond of adjectives, and cannot bring himself to tell his story in plain language, as one would suppose a man of his profession would be likeliest to do; and his incapacity in this respect, and the large capacity that he displays for fine writing, incline one to doubt if what he says may not be of his own invention. If not, it is well worth having. For an example of the better part of the article, we quote a passage in which the writer illustrates the proposition that fishes are full of curiosity—and he remarks *obiter* that the fact that animals are so full of curiosity as they show themselves to be when not terrified, is, to his mind, sufficient disproof of "the now exploded theory of instinct":

"A prolonged stay in one place gave a diver an opportunity to test this intelligence further, and to observe the trustful familiarity of this variety of

marine life. He was continually surrounded at his work by a school of gropers, averaging a foot in length. An accident having identified one of them, he observed it was a daily visitor. After the first curiosity the gropers apparently settled into the belief that the novel monster was harmless and clumsy, but useful in assisting them to their food. The species feed on crustacea and marine worms, which shelter under rocks, mosses, and sunken objects at the sea-bottom. In raising anything out of the ooze, a dozen of these fish would thrust their heads into the hollow for their food before the diver's hand was removed. They would follow him about, eyeing his motions, dashing in advance or around in sport, and evidently with a liking for their new-found friend. Pleased with such an unexpected familiarity, the man would bring them food and feed them from his hand, as one feeds a flock of chickens. The resemblance, in their familiarity and some of their ways, to poultry was, in fact, very striking. As a little chick will sometimes seize a large crumb and scurry off, followed by the flock, so a fish would sometimes snatch a morsel and fly, followed by the school. If he dropped it or stopped to enjoy his *bonne bouche*, his mates would be upon him. Sometimes two would get the same morsel, and there would be a trial of strength, accompanied with much flash and glitter of shining scales. But no matter how called off, their interest and curiosity remained with the diver. They would return, pushing their noses about him, caressingly in appearance if not intent, and bob into the treasures of worm and shell-fish his labor exposed. He became convinced that they were sportive, indulging in dash and play for the fun of it, rather than for any grosser object to be attained."

The concluding paper of a series which recounts the adventures of a party who were "prospecting" in South American woods for cinchona trees—and which, by the way, has been running through the *Tour du monde* during the past year, of course in French—is also worth reading; and the magazine reader will say the same thing of Miss Woolson's "Commonplace"; Miss Carpenter's "Winter's Reverie"; Mr. Reginald Wynford's "Country-House Life in England"; Miss Ita Aniol Prokaps's "Forest of Arden." Mr. Malford's "John Chinaman," albeit "thin," will have an interest for housekeepers, we suppose; any one who cares to go. Mr. Thomas Dunn English's "Jack the Regular" will carry back into the American literature of forty-odd long years ago, and it is an excursion not without a subdued and melancholy pleasure; finally, there is a lively little account of the adventures of a young gentleman who, without a passport, ran the gauntlet of two French custom-houses on the Swiss frontier, although the officials were at that time lynx-eyed for escaped Communists of various nationalities.

The book reviews—as of 'Songs from the Old Dramatists,' for instance, and of 'Gareth and Lynette,' are noticeably good in the February *Lippincott's*, and altogether the number is a good one.

The *Catholic World* opens with a translation of the Sixth Canto of the 'Purgatorio.' It is understood to be the work of Dr. Parsons, and, true or not, the statement certainly does not malign him. We commend also to the attention of the reader, whether Catholic or non-Catholic, an account of a steerage passage from England to this country written by a steerage passenger, who describes himself as a London clerk, thirty years old, who, for reasons not given, found himself compelled to seek his fortune in this country. The description is intelligent and clear, in no way sensational, and offers what is called "internal evidence" that it is truthful. There is to be another article or perhaps more than one continuing the subject. Another readable contribution is the description of a friendly visit paid to some Acoma Indians by an American party from Fort Wingate, Northern New Mexico. With these three articles in one number, the reader will see that there was no great call for the friendly advice which was given to the *Catholic World* the other day by one of our sweetest-tempered journals, and which was to the effect that it had better translate all its articles from foreign tongues.

It is a bold saying, but whoever reads Mr. John Burroughs's chronicle of his visit to Stratford-on-Avon will consent to call it about the newest and most agreeable thing that he has happened upon, whether in the *Galaxy* or anywhere else, for a long time. That what is seen depends upon who sees it quite as much as what is there to be seen, is very well proved by this intrepid traveller to Ann Hathaway's cottage, to the room where Washington Irving sat, to the much-travelled walls of Chester.

A little known writer, Emily Brontë, as to whom, indeed, many of her few readers would perhaps wish that she should still remain little known, is the subject of a careful and, as it seems to us, justly appreciative criticism by an anonymous contributor. Good service is done those who already know 'Wuthering Heights,' also to such persons as this criticism may prompt to read it, when it is suggested that there is a sowing of literary wild-oats, so to speak, as well as of other kinds, and that the unhuman and hateful character of that powerful story may be due to that fact. "When a woman's imagination possesses virile fire and power, it is apt in its first essays to project itself as far as possible from the beaten track of feminine grace and refinement, to delight in the sombre and the lurid, and to indulge in displays of strength which are too often uncouth and savage. There is a sowing of

wild-oats in literature and art as well as in life," etc. It is good service, too, to point out the extreme beauty of the pictures of open-air scenery—pictures with the air and space in them—which relieve the gloom of the novel. But nevertheless it is probable, we imagine, that the more strenuous and fiercer parts of 'Wuthering Heights,' and the stronger and more unconquerable strains of the poetry, better express the nature of the woman than the pictures do, or the verses expressive of the intimate feeling of the life of nature. We may, indeed, suspect nature to have been her refuge from herself. The article embodies much of the best of Emily Brontë's verses, and includes what we suppose will be pronounced the best, the poem called "Remembrance," in which she really speaks with perfect intelligibility and with great force to the common heart. But then her rare quality, unique we may call it, is perceptible in all she does.

To the sedate magazine reader the *Galaxy* offers a paper on "Life Assurance," and some "Casual Cogitations" by Mr. Carl Benson. Mr. Benson discourses on "American Impoliteness" and on the "Unmorality of

the Scientific Dispensation"; and on the latter he discourses in much the same way as if it were not true that, however much science men may come to know, nevertheless so long as they live in this world touching each other's elbows whenever they move, a system of morals they will most inevitably have. Liars and thieves, we may be sure, will not be any more popular and admired when we all have spectroscopes in our coat pockets than they used to be when we all temerarily maintained that nature abhors a vacuum. Science may more probably modify certain dogmas of religion, either momentarily or permanently. The rest of the number is made up of some chapters of two novels—Mr. De Forest's "Wetherel Affair," and Mrs. Edwards's "Vagabond Heroine"; another chapter of General Custer's "Life on the Plains" (and its bloody story will not please the Eastern philanthropist, whether of the true or the mock breed); "Women as Companions," by Mr. J. H. Browne; "The Norse Emigrant," by Mr. Boyesen, who is good, as is usual with him when he is Norwegian; some poetry by various writers, and a good deal of popular science.

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THE WEEK IN TRADE AND FINANCE.

FEBRUARY 3.

THE money market has remained active since our last report, with rates ruling at 7 per cent. currency and 7 gold; in some instances, $\frac{1}{4}$ commission in addition to the legal rate of interest was paid, which was the highest rate of the week. Balances at the close of business were loaned out, on one or two days, as low as 4 and 5 per cent., but these rates were entirely exceptional.

A fair amount of business has been doing in commercial paper, and we quote rates on prime names at 8 to 9 per cent. Transactions are reported at 7 per cent., but they were in bankers' acceptances. Paper of lower grades than either of the above is selling at 9 to 12 per cent.

The tendency of the European money markets, according to recent advices, is in favor of greater ease. The Bank of England rate of discount has again been lowered, and now stands at $3\frac{1}{2}$ per cent. Money is easy on the Continent, and there are no indications, at present, that any unfavorable turn will take place in financial affairs. The Bank of England reports a gain of £235,000 in specie last week, and the Bank of France 500,000 francs.

The weekly statement of the New York banks is unfavorable, showing a loss both in specie and legal tenders, with an increase in liabilities in the shape of deposits. The loss in specie is accounted for, in part, by last week's shipment—that of Saturday, as we pointed out at the time, counted for but one day in the table of averages upon which the statement was made up, and the real condition at the close of the week was considerably weaker than the statement caused it to appear. We give below the statements for the two weeks ending January 25 and February 1, which show that the banks have lost \$1,911,400 in their total reserve, and that their total liabilities have been increased \$469,500. The banks now hold \$3,246,925 in lawful money in excess of the 25 per cent. required:

	Jan. 25.	Feb. 1.	Differences.
Loans.....	\$282,159 100	\$285,879,690	Inc. \$4,720,590
Specie.....	20,371,700	18,612,200	Dec. 1,759,500
Circulation.....	27,529,200	27,501,000	Dec. 28,200
Deposits.....	216,670,800	217,168,500	Inc. 497,700
Legal tenders.....	45,974,000	45,802,100	Dec. 171,900

The following shows the relation between the total reserve and the total liabilities:

	Jan. 25.	Feb. 1.	Differences.
Specie.....	\$20,371,700	\$18,612,200	Dec. \$1,759,500
Legal tenders.....	45,974,000	45,802,100	Dec. 171,900
Total reserve.....	\$66,345,700	\$64,414,300	Dec. \$1,931,400
Circulation.....	27,529,200	27,501,000	Dec. 28,200
Deposits.....	216,670,800	217,168,500	Inc. 497,700
Total liabilities.....	\$244,544,700	\$244,669,500	Inc. \$469,500
25 per cent. reserve.....	61,636,000	61,167,375	Dec. 468,625
Excess over legal reserve.....	5,293,700	3,246,925	Dec. 2,046,775

The activity and buoyancy in the stock market, which commenced two weeks ago to-day and continued for the remainder of the week, seems to have been but temporary, and was not the forerunner of a regular "bull campaign." This bears us out in what we said last week, that it was occasioned by a few professional operators, who went in and bought only for a quick turn. The week just passed has been an unsatisfactory one to most operators, if not to the brokers, and the market has presented no special or interesting features. The operations in Atlantic and Pacific Preferred (the latest "fancy") have been upon quite a large scale, considering that there are not probably over 10,000 or 15,000 shares owned outside of Mr. Stockwell's party. The entire number of shares is 100,000, and the recorded number of shares sold during last week was 103,400—just 3,400 more than are in existence. Mr. William B. Duncan recently explained to the Ways and Means Committee his understanding of a "syndicate." He said that "syndicate" is another name for what we call a "ring" in New York, which manipulates the market in order to get rid of a thing, . . . by stimulating the market by numerous transactions, and by inducing people to sell what they have not got or to buy what they do not want, thus creating an unnatural demand. The "ring" in Atlantic and Pacific Preferred seems to be following out Mr. Duncan's definition. The dealings in this stock have been carried on to such an extent that the daily papers have been furnished with very amusing matter for their financial articles, and some of them have been posted up in the Exchange, where the point was readily seen.

The long-lost steamship *Alaska*, belonging to the Pacific Mail Steamship Company, has at last turned up, some twelve days overdue, at Hongkong. No cause has yet been given for the delay in her arrival. The first effect of the report of her safety was to send up the price of the stock, but the advance was not maintained, and at the close of the week the price is about where it started from. There has been a stronger

feeling in coal stocks, as well as in the stocks of the railroad companies engaged in the coal-carrying trade, which is due to the recent rise in the price of coal, as indicated by the higher prices obtained at the auction sale of the Delaware, Lackawanna, and Western Railroad Company last week. The rise in Delaware, Lackawanna, and Western for the week was about 3 per cent., the closing sales being at 102 against 99 $\frac{1}{4}$, the lowest price on Monday. The investment stocks have been in good demand. Chicago, Burlington, and Quincy sold at 120 on Friday, an advance of $5\frac{1}{2}$ per cent. since the 25 per cent. bond dividend came off January 15. Chicago and Alton found ready sale at 114 to 115, and Michigan Central has been in demand at 109. The latter Company, it seems, has expended the money that would otherwise have gone to the stockholders as a dividend (the Company paid a stock in place of a cash dividend), in furnishing additional equipment to the road, and improving its road-bed. The President of the Company, in a circular to the stockholders, complains that connecting roads have not been able to receive all the business that the Michigan Central has had to give them, and he looks forward with pleasure to the completion of other new lines that will add to his road's ability to accommodate the business offered.

The range of prices for the week has been as follows: Central and Hudson, 104 $\frac{3}{8}$ to 105 $\frac{5}{8}$; Lake Shore, 94 $\frac{3}{8}$ to 95 $\frac{3}{8}$; Erie, 64 to 67 $\frac{3}{8}$; Union Pacific, 34 $\frac{5}{8}$ to 35 $\frac{3}{8}$; Rock Island, 112 $\frac{5}{8}$ to 114 $\frac{1}{8}$; Del., Lack., and Western, 99 $\frac{1}{8}$ to 102; C. C. and I. C., 33 $\frac{5}{8}$ to 41 $\frac{1}{8}$; Wabash, 72 $\frac{1}{2}$ to 74 $\frac{1}{2}$; Boston, Hartford, and Erie, 8 $\frac{1}{2}$ to 10; Ohio and Mississippi, 47 $\frac{3}{4}$ to 49 $\frac{1}{4}$; Western Union, 83 $\frac{3}{8}$ to 87; Pacific Mail, 72 $\frac{1}{8}$ to 74 $\frac{5}{8}$. At the close on Saturday there was a more buoyant feeling than had existed during the earlier part of the week, but it was manifested in only a few speculative favorites like Erie, Western Union, and Boston, Hartford, and Erie, which all closed at the highest point of the day and week.

The united syndicates have published all the details of the negotiation of the 300,000,000 new 5 per cents which the public are expected to require, and on Tuesday the books of subscription will be opened here and in London, and remain open for three days only. Everything looks favorable to the success of the loan, especially in London, where so many of the old bonds, which will be paid off, are held. Before the present number of the *Nation* is published, it will be pretty well ascertained whether the new bonds will be taken. Meantime, we wish the agents success in their negotiations. The market for Governments has been strong. Prices are all up to and above par in gold. The Treasury was unable to obtain the \$1,000,000 5-20s advertised for on Wednesday, only \$208,900 being offered at 113 70 to 113 99. The amount accepted was \$169,350 at 113 70 to 113 74 $\frac{1}{4}$. The price of gold at the time the offers were made was 114.

Beyond some transactions in Tennessee, Southern State bonds have been dull, and only a small amount of business was done in those of other States.

The market for good railroad bonds will be much benefited if the new Government 5 per cents are successfully negotiated, and the probability of their being all taken has already imparted to the market a stronger feeling. Next to a Government bond, there can be no safer investment than a first-mortgage railroad bond, provided that the road is bonded only to a reasonable extent, say \$15,000 per mile or under, and that the railroad on which the bonds are issued is located so as to command business at all times. An intelligent examination into the following facts will be of great benefit to investors: The length of road, amount of bonds, amount of stock, amount of money paid upon the stock, character of managers, condition of rolling stock (and whether it belongs to the road, or is owned by an inside "ring" and rented out to the road), condition of road-bed, and likelihood of business when completed. All of these questions are of importance to investors in making purchases, and a closer investigation of the actual condition of the different companies that have placed bonds upon this and the European markets would have prevented the "floating" of such loans as the Rockford, Rock Island, and St. Louis Railroad Company and others that we could mention.

The gold market is weaker, in consequence of the favorable outlook for the syndicate operations. The shipments for the week amounted to \$591,579, making the total for the year \$7,402,734, against \$1,542,344 for the same period in 1872, \$3,405,523 in 1871, \$2,932,695 in 1870, \$3,788,603 in 1869, and \$8,933,833 in 1868.

The General Superintendent of Wells, Fargo & Co.'s Express estimates the gold and silver production of last year at \$62,236,943 against that of 1871, \$58,234,059—showing an increase for 1872 of \$3,952,884. This includes about \$2,000,000 produced on the west coast of Mexico and in British Columbia. The total export for the year 1872 from this port was \$70,550,000. So we have shipped from this port alone over \$8,000,000 more gold and silver than the whole country produced, including the production of the west coast of Mexico and British America, which amounted to nearly \$2,000,000.

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